

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15609 of 2022

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Ram Ratan Paswan Son of Late Loki Paswan, Resident of Village- Mor, Ward
No. 11, Mor (part in Mokamah), P.S. Mokamah, District- Patna, Pin code-
803302

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land
Reforms Department, Government of Bihar, Secretariat, Patna.
2. Collector of the District, Patna.
3. Deputy Collector, Land Reforms, Barh, Patna.
4. Block Development Officer, Mokamah, Patna.
5. Panchayat Secretary, Mor Panchayat, Mokamah, Patna.
6. Mukhiya, Mor Panchayat, Mokamah, Patna.
7. Circle Officer, Mokamah, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ashok Kumar, Advocate
For the State : Mr.Raj Kishore Roy (Gp18)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
Date : 04-07-2023

1. The present writ petition has been filed seeking the
following reliefs:-

*“(i) To issuance of a writ, order or
direction in the nature of Mandamus/Certiorari
quashing third and final notice dated
16.11.2018 bearing Gyapank No.1476, issued
by the respondent No.7 Circle Officer,*



Mokamah in Encroachment Case No. 02 of 2016-17 (Annexure-5) by which the petitioner has been directed/ordered to vacate the encroached land himself till 17.12.2018 failing which after 17.12.2018 the same will be vacated with the help of police and cost incurred in vacation will be charged from the petitioner;

(ii) Further be pleased to quash second show cause notice issued by the respondent no.7 in Encroachment Case no.02 of 2016-17 whereby the respondent no.7 asked the petitioner that why not action for encroachment of public land be taken against him and further directed to remove the encroachment himself and appear and submit his show cause on 29.10.2018 at 11 P.M.;

(iii) In consequence be further pleased to quash first show cause notices dated 28.09.2018 bearing letter no. 1283, issued by the respondent no.7 Circle Officer, Mokamah, Patna in Encroachment Case No. 02 of 2016-17 (Annexure-4) by which the respondent asked the petitioner that why not action under Public Land Encroachment Act be taken against him and further directed to remove the encroachment himself from 589.875 Sq. ft. land over which Pukka and Khapadaposh House is standing, situated at Mauza- Mor, P.S. Kokamah, District Patna bearing Thana No.33,



Plot No. 2208 and further directed to appear on 10.10.2018 and submit his show cause;”

2. The case of the petitioner, in brief, is that the petitioner has constructed his house over a piece of land appertaining to Khata No.1390, Plot No.1090, Thana No.33, Mauza-Mor, Police Station-Kokamah, District-Patna and has been in peaceful possession of the same as a Sikmidar/Purcha holder since 12.04.1982, however, the respondents are seeking to evict him illegally, and to the said effect, they have issued the impugned notice dated 16.11.2018, under the sign and signature of the Circle Officer, Mokama, under Section 6(2) of the Bihar Public Land Encroachment Act, 1956 (for short ‘the Act, 1956’), in connection with Encroachment Case No.02 of 2016-17. It is further submitted that the aforesaid notice dated 16.11.2018 has been issued to the petitioner, directing him to remove the encroachment in question, without passing of any final order under Section 6(1) of the Act, 1956.

3. This Court had, by its earlier order dated 11.05.2023, directed the District Magistrate to file a detailed counter affidavit, informing this Court as to whether any order under Section 6(1) of the Act, 1956 has been passed by the Circle Officer, Mokama, District Patna, in connection with



Encroachment Case No.2 of 2016-17 or not.

4. A counter affidavit has been filed by the District Magistrate, Patna wherein it has though been admitted that the impugned notice dated 16.11.2018 has been issued, directing the petitioner to remove encroachment, however, without passing of any order under Section 6(1) of the Act, 1956, hence the same has been cancelled by the Collector, Patna, nonetheless, an order has been passed by the Collector, Patna directing the Circle Officer, Mokama to conduct fresh measurement and pass order afresh after hearing the petitioner.

5. Having regard to the facts and circumstances of the case, this Court finds that since the impugned notice has already been cancelled by the Collector, Patna, no *lis* survives in the present case, however, this Court deems it fit and proper to direct the Circle Officer, Mokama, District-Patna to re-measure the land in question, in presence of the petitioner and in case he is of the view that any portion of the public land has been encroached, then a fresh notice shall be issued to the petitioner under Section 3 of the Act, 1956, calling upon the petitioner to put forth his defence, and after considering the objections/reply of the petitioner, the Circle Officer, Mokama, District- Patna shall pass the final order under Section 6(1) of the Act, 1956 and



till then no coercive action shall be taken against the petitioner.

6. The writ petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.08.2023
Transmission Date	NA

