

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1098 of 2019
In
Civil Writ Jurisdiction Case No.16328 of 2018**

Sudesh Bhagat @ Bhola Bhagat S/o Late Biltu Bhagat R/o At and P.O.-
Jandaha (Hazrat Jandaha), Thana- Jandaha, District- Vaishali (Bihar).

... .. Appellant/s

Versus

1. The State of Bihar Through Principal Secretary, Revenue Department, Patna, (Bihar).
2. The Commissioner Tirhut Division, Muzaffarpur (Bihar).
3. The District Magistrate Hajipur at Vaishali (Bihar).
4. The Circle Officer Jandaha, Vaishali (Bihar).
5. The District Development Commissioner Hajipur, Vaishali (Bihar).
6. Sri Charan Prasad Gupta Late Rajendra Sah R/o At and P.O.- Jandaha (Hazrat Jandaha), Thana- Jandaha, District- Vaishali (Bihar).

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Digvijay Narayan Singh, Advocate
For the Respondent/s : Mr. Md. Khurshid Alam, A.A.G.-12

**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER**

(Per: HONOURABLE THE CHIEF JUSTICE)

7 28-11-2023 Respondent No. 7 in the writ petition has filed the
above appeal.

2. Respondent Nos. 6 and 7 were alleged to be encroachers by the writ petitioner who filed the above writ petition for the purpose of removal of encroachment. The learned Single Judge found that the Circle Officer, Jandaha, Vaishali has already taken appropriate steps. The writ petitioner



did not press the writ petition and hence, it was disposed off accordingly.

3. The Respondent No. 7 has challenged the above order contending that three encroachment petitions were filed by the writ petitioner based on the very same set of facts. Earlier, Encroachment Complaint No. 16 of 1974-75 was filed and it was allowed. After 42 years, in the year 2018, this writ petition was filed when again Encroachment Case No. 1 of 2018-19 was filed based on the above proceedings. The appellant contends that his house and boundary walls were demolished. Again an encroachment case has been filed as Encroachment Case No. 03 of 2022-23 which has led to further demolition.

4. We find that there is no scope for an appeal since if any prejudice was caused in the encroachment case the appellant should have challenged the order passed in an appropriate proceeding. In any event, the Learned Single Judge has merely disposed of the writ petition noticing that the Circle Officer, Jandaha, Vaishali has already taken appropriate steps. Such appropriate steps can only be in accordance with law and it is for the petitioner to contest the same, if prejudicial orders are passed. The petitioner cannot challenge such proceedings in an appeal, from an order which merely disposed of the writ



petition as not pressed. The appeal cannot travel beyond the scope of the writ petition itself. If prejudicial orders are issued against the appellant, untrammelled by the disposal of the writ petition, the prejudicial orders can be challenged by the appellant, subject only to just exceptions including limitation.

5. The appeal stands dismissed with the above observation.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Sudha/Neha-

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