

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16846 of 2022

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Umesh Ram son of Shri Dwarika Paswan @ Dawarika Ram, Resident of
Village- Anchha, P.S.- Daudnagar, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through Collector, Aurangabad.
2. The Additional Collector, Aurangabad.
3. The Circle Officer, Daudnagar, District- Aurangabad.
4. The Station House Officer, Daudnagar Police Station, Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Shrivastava, Advocate
For the Respondent/s : Mr. Sajid Salim Khan (SC-25)

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 18-01-2023 Heard Mr. Rakesh Kumar Shrivastava, learned
counsel appearing on behalf of the petitioner and Mr. Sajid
Salim Khan, learned SC-25 for the State.

2. In the present writ petition, the petitioner has
prayed for the following reliefs:-

*“(i) For quashing of the Notice dated
25.11.2022 passed in Encroachment Case No.14 of
2022-23 by Circle Daudnagar, Aurangabad, officer,
whereby direction has been given for removal of
encroachment which has been marked by Anchal
Amin.*

*(ii) For direction to respondent
authority to restore the Orchyard of the petitioner
which has been removed by the Circle officer,
Daudnagar, by the help of Station House Officer,
Daudnagar Police Station without any prior notice.*



(iii) For further direction to restrain the respondent to demolish house of the petitioner which has constructed upon the Khatiyani land of the petitioner which has wrongly been marked by the Anchal Amin."

3. Learned counsel for the petitioner is aggrieved by the action of the Circle Officer-respondent no. 3 who has allegedly without jurisdiction in garb of notice issued under Sub-section 2 of Section 6 with respect to certain government land appertaining to Khata No. 555 Plot No. 712, has demolished some portion of the house of the petitioner, which is standing on Khata No. 111 Khesra No. 1620/408.

4. Mr. Sajid Salim Khan, learned counsel appearing on behalf of the State submitted that the Authority has proceeded in accordance with law by initiating encroachment proceeding as per the provision of Bihar Public Land Encroachment Act, 1956. He further submitted that petitioner has alternative remedy of appeal and as such the present petition is fit to be dismissed.

5. Having regard to the rival submission of the parties and materials on record, it appears that the notice issued under Section 3 and Sub-section 1 of Section 6 and Sub-section 2 of Section 6 are with respect to Plot No. 712, Khata No. 555. The case of the petitioner is that he is aggrieved by demolition of certain portion of his house standing on Khata No. 111, Khesra



No. 1620/408, which is his khatyani land. The notice under Section 6(2) of the Act reveals that the same has been issued in the name of the father of the petitioner.

6. The petitioner has challenged the action of Circle Officer on the ground that he has no jurisdiction to issue notice under the Bihar Public Land Encroachment Act, 1956 with respect to the Khatyani land of the petitioner. In support of his claim the petitioner is directed to file appeal under Section 11 of the Act before the Collector, Aurangabad within a period of three weeks.

7. The District Magistrate, Aurangabad is directed to verify from the revenue records, both cadastral survey and revisional survey, with respect to revisional survey plot no. 1620/408 corresponding Khata No. 111 to verify the fact whether notice relates to the Khatyani land of the petitioner and record his finding and dispose off the appeal within a period of three weeks from the date appeal is filed by the petitioner, after giving proper opportunity of hearing to the petitioner and pass a reasoned order in accordance with law.

8. In the meantime, the respondents are restrained from proceeding in furtherance of notice under Section 6(2) of the Act.



9. Accordingly, the present writ petition is disposed
of.

(Purnendu Singh, J)

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