

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15858 of 2023

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Chhotelal Mandal Son of Late Baldeo Mandal, resident of Village-Raghopur,
Post Office-Raghopur, police Station-Parwatta, District-Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Land Reform and Revenue Department, Government of Bihar, Patna.
2. The Divisional Commissioner, Bhagalpur Division, Bhagalpur.
3. The District Magistrate cum Collector, Bhagalpur.
4. The Additional District Magistrate cum Collector, Bhagalpur.
5. The Deputy Development Commissioner, Bhagalpur.
6. The Circle Officer, Kharik, District Bhagalpur.
7. The Block Development Officer Kharik, District Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Kundan Kumar
For the Respondent/s : Mr.Md. Khurshid Alam (Aag 12)

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 05-12-2023 Heard the parties.

2. It has been submitted by the learned counsel for the petitioner that due to mala fide reasons, the Circle Officer, Kharik, Bhagalpur issued him a notice dated 19.09.2023 by initiating an Encroachment Case No. 4 of 2023 in which the petitioner was directed to appear on 4.10.2023. It has further been submitted by the learned counsel for the petitioner that the circle officer has not examined the alleged encroachment in his presence but in bala-bala manner he has issued first notice under Section 3 of the Bihar Public Land Encroachment Act, 1956



thereafter the petitioner on 04.10.2023 filed one application and has prayed for supply of documents but without supplying any documents and without hearing the petitioner, the petitioner has been given a notice again for removal of the encroachment.

3. The circle officer is duty bound to hear the petitioner in an encroachment proceeding and pass necessary orders in accordance with law after hearing the petitioner.

4. It is further directed that the circle officer will consider the application of the petitioner dated 4.10.2023 filed by the petitioner and dispose it first and thereafter he will consider the contention of the petitioner on subsequent dates after supplying the documents asked by the petitioner and then only he can pass any final orders.

5. While considering the show cause, the circle officer must consider the fact that a title suit bearing Title Suit No. 40 of 2023 is also pending between the petitioner and the State. The State has to participate in the title suit and file a Written Statement. Once a title suit has been filed, the State should not be in a hurry to remove the alleged encroachment and particularly in view of the fact that personal mala fide allegations have been levelled by the petitioner against the circle officer.



6. During pendency of the encroachment proceeding, the possession of the petitioner shall not be disturbed by the Circle Officer. If any adverse order is passed by the Circle Officer against the petitioner then for the next thirty days also the possession of the petitioner shall not be disturbed.

7. With the aforesaid directions, this application is disposed of.

(Sandeep Kumar, J)

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