

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.495 of 2023

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Prabhunath Prasad son of Rajnarayan Prasad, Resident of Village-Bediban,
P.S. Pipra, District-East Champaran at Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Land Reforms and Revenue, Patna.
2. The District Magistrate, East Champaran, Motihari.
3. The Sub-Divisional Magistrate, Chakiya, East Champaran.
4. The Circle Officer, Chakiya, East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar, Advocate.
For the Respondent/s : Mr.Atul Shankar, AC to SC-19.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 25-01-2023 Heard the parties.

2. This case has been heard out of turn considering the submission of learned counsel appearing on behalf of the petitioner that the Circle Officer, Chakia is bent upon to demolish the house of the petitioner situated on the land appertaining to Khata No. 132, Khesra No. 2627, Thana No. 103, Mauza- Beniban Madhuban, Circle-Chakia, District – East Champaran.

3. Mr. Sanjay Kumar, learned counsel appearing on behalf of the petitioner submitted that a notice under Sub-Section 2 of Section 6 the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as “the Act”) has been issued to the



petitioner without following the procedure as prescribed under the Act. Referring to Annexure P/1, he submitted that *Parwana* has been issued in the year 1974 vide Memo No. 70 dated 04.04.1974 and since then petitioner is in occupation of the land in question and rent receipt has also been brought on record by way of Annexure-P/2 series. The Circle Officer, Chakiya has not followed the due process of law and has shown muscle to dispossess the petitioner with force. Petitioner is threatened by such illegal action of the respondent no.4 - the Circle Officer, Chakiya.

4. The State counsel was directed to seek instruction from the District Magistrate, East Champaran as well as the Circle Officer, Chakiya.

5. Mr. Atul Shankar, learned counsel appearing on behalf of the State informed this Court that he had a telephonic talk with the Circle Officer, Chakiya who has informed him that he has taken action in due compliance of the order dated 06.04.2017 passed in C.W.J.C. No. 9692 of 2015 (Ram Punit Choudhary Vs. The State of Bihar & Ors.) and the proceeding under Bihar Public Land Encroachment Act was initiated in compliance of the said order passed in C.W.J.C. No. 9692 of 2015.



6. Considering the rival submissions of the parties, the action of the Circle Officer appears to be vested with some personal interest. The order dated 06.04.2017 was required to be complied on the basis of certain documents which relates to any pond or public utility land and not against any person who has been issued *Parwana* with respect to the plot appertaining to Khata No. 132, Khesra No. 2627 which is a *Gairmajarua Aam Malik* land and the petitioner has also brought on record rent receipts paid to the State Government.

7. The other question arises as to whether the Circle Officer, Chakiya has proceeded in accordance with the provisions of Bihar Public Land Encroachment Act, 1956 and whether the petitioner was provided any opportunity of hearing.

8. Specific submission has been made by the petitioner that pursuant to the notice issued to the petitioner, he has filed his show cause enclosing all the records before the Circle Officer on 20.11.2022 in compliance of notice dated 12.11.2022 and requested not to proceed with the Encroachment Case No. 03 of 2019-20. Thereafter, petitioner was not provided any personal hearing and an order was passed behind the back which has not been communicated till date to the petitioner and the Circle Officer has issued notice under Sub-Section 2 of



Section 6 of the Act.

9. Normally, if order is passed under Sub-Section 1 of Section 6 of the Act, there is remedy of appeal before the Collector. However, in the present case, this Court interferes as the order passed by the Circle Officer is vested with some personal interest. If at all any action was to be taken in compliance of order dated 06.04.2017 of this Court, it was the responsibility of the Circle Officer to first mark all such land which are being used for public utility.

10. In present case, the petitioner has brought on record *Parwana* issued in the year 1974 and the revenue receipts which admittedly shows the possession of the petitioner as on date. However, in absence of order passed under Sub-Section 1 of Section 6 of the Act, this Court is constrained to quash the said illegal order. However, petitioner is directed to forthwith file appeal before the Collector, even without any order which the Circle Officer has deliberately directed his office not to issue certified copy of the order passed under Sub-Section 1 of Section 6 of the Act to the petitioner.

11. Superintendent of Police, East Champaran is forthwith directed to impound all the records relating to Encroachment Case No. 03 of 2022 and verify at his personal



level as to whether any order has been passed in Encroachment Case No. 03 of 2022 and produce the record before the District Magistrate, East Champaran within two weeks.

12. The District Magistrate, East Champaran is directed to accept the appeal filed by the petitioner and call for the records of the Encroachment Case No. 03 of 2019-20 and pass a reasoned order in accordance with law within a period of six weeks. In the meantime, he is directed to maintain status quo.

13. The District Magistrate, East Champaran is further directed to look into the affairs of the Chakiya Circle.

14. Mr. Atul Shankar, learned AC to SC-19 is directed to contact telephonically with the Superintendent of Police, East Champaran and send fax message to him directly so as to comply with the order today itself and submit action taken report to the District Magistrate, East Champaran to go through the records and report submitted by him so as to take criminal as well as disciplinary action against the Circle Officer, Chakia.

15. The local police must not intimidate the petitioner in any manner under the influence of the Circle Officer. If such complaint is made by the petitioner, he is at liberty to inform the Superintendent of Police, East Champaran by filing an



application before him, who is directed to take appropriate action on the allegation made by the petitioner.

16. With the above observation, the writ petition stands disposed of.

(Purnendu Singh, J)

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