

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2412 of 2024

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Md. Mumtaz Alam S/o- Abdul Sattar, R/o- Village- Chhatiya, P.S.- M. Ranipatra, District-Purnia.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
3. The Collector, Purnea.
4. The Additional Collector, Purnea.
5. The Deputy Collector Land Reforms, Purnea East.
6. S.D.M., Sadar, Purnea.
7. Circle Officer, Purnea East.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Wasi Mohammad
For the Respondent/s : Mr.Government Pleader (19)

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

- 2 06-03-2024 1. This writ application has been filed for quashing the entire proceedings of Encroachment Case No. 02 of 2018-19 initiated by the Circle Officer, Purnea East including the orders dated 12.09.2023 and 05.10.2023 by which the order has been passed without hearing the petitioner.
2. The notice was issued to the petitioner by the Circle Officer, Purnea East in Encroachment Case No. 02 of 2018-19. The order dated 14.03.2022 reflects that the petitioner appeared and filed his show cause, thereafter the case was fixed for further hearing on 30.04.2022. The order sheet further



reflects that one order has been recorded on 12.09.2023 and the order has been passed by the Circle Officer, Purnea East.

3. The order dated 12.09.2023 passed by the Circle Officer, Purnea East reads as follows:-

“अभिलेख उपस्थापित। निर्धारित तिथि को अधिनियम की धारा -3 की तहत कारणपृच्छा हेतु सूचना निर्गत की गई थी , उस आलोक में अवैद्यकब्जाधारी के द्वारा उपस्थित होकर कारणपृच्छा समर्पित किया है। कारणपृच्छा के अवलोकन से स्पष्ट होता है कि उनके पास भूमि से संबंधित उचित दस्तावेज नहीं है। खतियान के अनुसार उक्त भूमि बिहार सरकार खाते की है किस्म जमीन भी दो है जो सार्वजनिक रूप से उपयोग किया जाता है। अधिनियम की धारा -5 के अन्तर्गत परिभाषित सार्वजनिक भूमि पाया गया है, जिस कारण प्रश्नगत भूमि को लोक भूमि घोषित करते हुए आधुनिकता की धारा -6 के अंतर्गत संलग्न सूची में वर्णित व्यक्तियों को उपरोक्त सार्वजनिक भूमि का अतिक्रमण घोषित किया जाता है।”



4. From the order, it appears that it is a non-speaking order and the same has been passed without hearing the petitioner. Even the contentions raised in the show cause have not been discussed by the Circle Officer.

5. Any order without reasons is no order in the eye of law and moreover this order has been passed without hearing the petitioner and the consequential order has been passed on 05.10.2023.

6. Learned counsel for the State has tried to defend the order impugned which is 12.09.2023 but is not in a position to defend the same.

7. These kind of orders cannot be sustained by this Court.

8. This application is allowed and the order dated 12.09.2023 passed in Encroachment Case No. 02 of 2018-19 by the Circle Officer, Purnea East and the consequential order dated 05.10.2023 are hereby quashed.

9. The matter is remitted back to the Circle Officer, Purnea East who will issue afresh notice to the petitioner and will proceed in accordance with law i.e. he will hear the petitioner and then only he will pass a speaking order considering all the contentions raised by the petitioner. He



cannot pass a two line order saying that show cause is not satisfactory and the petitioner has not been able to produce any document.

10. This application stands allowed with cost of Rs. 5,000/-.

11. The cost of Rs. 5,000/- shall be paid to the petitioner on the first date fixed in encroachment case. Encroachment case will proceed only after the cost of Rs. 5,000/- is handed over to the petitioner by the Circle Officer, Purnea East.

(Sandeep Kumar, J)

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