

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10732 of 2020

Abdul Miyan Son of Peeru Miyan, Resident of Bishunpura, P.O. Damodarpur,
P.S. Pipra, District- East Champaran at Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, East Champaran, Motihari.
2. The Collector, East Champaran at Motihari.
3. The Sub Divisional Officer, Chakiya, P.S. Chakiya, District- East Champaran at Motihari.
4. The Circle Officer Chakiya, P.S. Chakiya, District- East Champaran at Motihari.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shyama Kant Singh, Advocate
For the Respondent/s : Mr. Lalit Kishore, A.G.

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

6 13-02-2024 Heard the parties.

2. The present petition has been preferred for the following reliefs:-

(i) for issuance of writ in nature of mandamus for commanding and directing the concerned respondent authority disposal of the representation /application filled by the petitioner complain dated 19.03.2018 and followed by another representation/application dated 04.09.2019 to the collector East Champaran at Motihari. Where by petitioner made representation/application to the collector



Motihari for made fresh enquiry with respect to illegally removed part of house of the petitioner ariea-1.5 Dhur, Khata No.178, Khesara No.-1396 and 1399 Mauza Bishunpura, Circle Chakiya District- East Champaran at Motihari during the encroachment proceeding on 22.09.2016. Holding as public land;

(ii) and further prayed for restore the private land of the petitioner as stated above on its possession;

(iii) and further prayed direction to the concerned respondent authorities for payment of compensation with 18% interest for illegal removal of the private house of the petitioner during the said Encroachment proceeding by Respondent No.04 i.e. circle officer Chakiya.

3. The case of the petitioner is that an encroachment proceeding was initiated against him vide Case No. 04/2006 in which he submitted his show cause with a prayer for fresh measurement of land.

4. A complaint was also filed before the Sub-Divisional Public Grievance Redressal Officer, Chakiya



complaining about the illegal removal of the house of the petitioner. It came to be dismissed on 06.01.2017. Aggrieved, the petitioner moved before the District Public Grievance Officer, East Champaran, Motihari. Meanwhile, the petitioner alleges that on 19.03.2018, the Circle Officer removed the house of the petitioner.

5. He claims that he was residing in the house for years which has been ignored and illegal orders passed on the basis of which in the garb of encroachment proceeding, his house was demolished.

6. A counter affidavit has been filed on behalf of the respondent nos. 2 to 4 duly signed by the Circle Officer, Chakiya, East Champaran.

7. Learned State Counsel has taken this Court to paragraph 6 according to which, one Rahman Mian has preferred application before the respondent-Circle Officer, Chakiya, complaining encroachment by this petitioner. Accordingly, Encroachment Case No. 04 of 2006 was taken up and an order was passed with a direction to remove the encroachment.

8. This order was passed after putting the petitioner on notice as also taking the report of the Anchal Amin according to



which, the petitioner was found to have encroached the public land. Accordingly, the final order was passed by the Circle Officer, Chakiya on 12.01.2007. The petitioner neither removed the encroachment nor it is his case that he preferred any petition challenging the said order of the Circle Officer.

9. In the meantime, Rahman Mian who earlier made the complaint before the Circle Officer, Chakiya moved this Court in CWJC No. 5665 of 2012 with the grievance that despite the final order passed by the Circle Officer, Chakiya on 22.01.2007, the encroachment has not been removed.

10. The Court directed the respondents to consider his representation which followed Miscellaneous Case No. 28 of 2013 in which an order was passed on 07.06.2016 by the Collector, respondent no. 2. It was in the aforesaid background, that the encroached portion of the petitioner was cleared.

11. This counter affidavit was filed on 30.08.2022. Thereafter on 01.09.2022, learned Counsel for the petitioner sought time to file reply to the counter affidavit and the same prayer was made on 21.12.2023.

12. Today on call, one and half year later after first prayer once again, prayer for adjournment is being made.

13. This Court is satisfied that no case is made out.



The matter relates to an encroachment proceeding of the year 2006 in which an order was passed in the year 2007. It is not the case of the petitioner that he ever challenged the said order of the Circle Officer, Chakiya in which the direction was given to remove the encroached land. Subsequently, the complainant, Abdul Rahman pursued the matter alleging that despite the order passed in the year 2007, the respondents are sitting over the matter blocking his exit from the house. In that background, in view of the fact that an order was passed in the year 2007 itself, the appropriate steps were taken which resulted into removal of the encroached portion from the public land.

14. The decision taken by the respondents followed by the removal of the encroachment needs no interference.

15. The petitioner, if so wants, may seek legal remedy as available to him under the laws of the land.

16. The writ petition stands dismissed.

(Rajiv Roy, J)

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