

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12978 of 2024

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Bhagirath Mahto @ Bhagirath Prasad S/o Bhatu Mahto, resident of Village
and P.O.- Shakunatkala, P.S.- Bihar, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Land and Revenue Reforms, Bihar, Patna.
2. The Divisional Commissioner, Patna Division, Patna.
3. The District Magistrate cum Collector, Nalanda at Biharsharif.
4. The Additional Collector, Nalanda at Biharsharif.
5. The Sub-Divisional Officer, Biharsharif, District- Nalanda.
6. The Deputy Collector, Land Reforms, Biharsharif, Nalanda.
7. The Circle Officer, Biharsharif, District- Nalanda.
8. Neeraj Kumar @ Dablu, S/o Kapil Prasad, resident of Village- Banuliya, P.S.- Bihar, District- Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Arvind Kumar Sinha, Advocate
For the Respondent/s : Mr. Madhusudan Rai, AC to SC-23

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 09-09-2024 The present writ petition has been filed
seeking the following reliefs:-

*“1.(i) To issue an appropriate order/s,
direction/s including a writ preferably in
the nature of Certiorari for quashing the
notice dated 24.04.2023 issued to the
petitioner in connection with Encroachment
Case No. 12/2022-23 issued from the office
of Circle Officer, Biharsharif directing the
petitioner to show cause as to why
encroachment made over the land
measuring an area 27' x 32' appertaining*



to Khata No. 83 Khesra No. 33 situated at Village-Chainpur, P.S.-Bihar, District-Nalanda should not be removed. The petitioner has been directed to appear before the Circle Officer, Bihar Sharif on 09.05.2022 at 10.30 A.M. The land in question alleged to be encroached is a burial/grave yard a public land defined u/s 2(3) of the Bihar Public Land Encroachment Act, 1956.

(ii) To quash the final order dated 01.01.2024 passed in Encroachment Case No. 12/2022-23 under Section 6 (1) of the Bihar Public Land Encroachment Act, 1956 passed by the Circle Officer, Bihar Sharif whereby and whereunder he has directed the petitioner to remove the encroachment from the above mentioned land. It has been directed to issue notice in Prapatra-II within a period of fortnight in order to remove the encroachment.

(iii) To quash the notice u/s 6(2) of the Bihar Public Land Encroachment Act, 1956 dated 27.07.2024 issued from the office of Circle Officer, Bihar Sharif in connection with Encroachment Case No. 12/2022-23, by which the petitioner has been directed to comply with the order of removal of encroachment from the above mentioned land on 13.08.2024 failing which penalty would be imposed under section 188 of I.P.C.”

2. At the outset, the learned counsel for the



petitioner seeks liberty on behalf of the petitioner to challenge the final order dated 01.01.2024 passed by the Circle Officer, Biharsharif, District-Nalanda, under Section 6(1) of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as the 'Act, 1956'), in connection with Encroachment Case No. 12 of 2022-23, by filing appropriate appeal under Section 11 of the Act, 1956, however, seeks some protection during the interregnum period.

3. Having regard to the facts and circumstances of the case, I deem it fit and proper to grant liberty to the petitioner to file appropriate appeal, as aforesaid, and in case such an appeal is filed within four weeks from today, the same shall be heard by the appellate authority on merits forthwith.

4. It is needless to state that for a period of four weeks from today, status quo, existing as on today, qua the land/house of the petitioner in question shall be maintained in order to enable the petitioner to file appropriate appeal and seek



interim relief.

5. The writ petition stands disposed off on
the aforesaid terms.

(Mohit Kumar Shah, J)

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