

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13885 of 2024

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Sunita Devi W/o Umesh Tiwari R/o Village Nasir Gang Maner, P.S. - Maner
and District- Patna-801108.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Chief Secretary, Government of Bihar.
2. The Chief Secretary, Revenue and Land Reforms Department, Bihar, Patna.
3. The District Magistrate, Patna, Bihar
4. The Sub Divisional Officer, Danapur.
5. The Circle Officer, Maner, Patna
6. Ram Balak Rai, R/o Hulasi Tola, P.S. Maner, District- Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Harshit Griyaghey, Advocate
For the Respondent/s : Mr.Government Pleader 18

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 11-09-2024 1. The present writ petition has been filed seeking the
following relief(s):-

*“1(a) For issuance of a writ in the nature of
certiorari for quashing the letter no. 1677
dated 04.07.2024 (Annexure-7) issued by the
learned Circle Officer, Maner whereby and
where under the petitioner has been directed to
remove the encroachment within a period of 10
days otherwise the same will be removed by
force and for which the petitioner will have to
bear the cost. The respondent authority has
issued the impugned notice without taking into
consideration that there is no encroachment
and it is ancestral dwelling house bearing*



Mauza - Maner, Tauzi No. 3127, Khata No. 330, Khesra No. 667, which is recorded in the name of the great grandfather of the petitioner and they are residing therein for the last 100 years. The petitioner is the legal owner and has valid right, title and interest & possession over the said land. The impugned notice is vague inasmuch as it does not indicate any case number and wrong Khata No. 331, Khesra No. 668, Area 440 sq. ft. has been mentioned therein, which has been shown as public passage, with which the petitioner has no concern.

(b) For issuance of a writ in the nature of certiorari for quashing the office order dated 27.08.2024 (Annexure - 8) issued by the S.D.O. Danapur whereby the police force and JCB machines has been instructed to be present on the date of removal of encroachment, without giving the description of land and the case number.

(c) For issuance of a writ in the nature of certiorari for quashing the ex-parte order dated 05.04.2023 and 25.04.2023 (Annexure- 5) passed by the learned Circle Officer, Maner, Patna in encroachment case no. 11 of 2022-23 whereby and where under the land bearing Plot no. 668, Khata No. 331, Mauza - Maner, Thana No. 7, part area 440 sq feet has been declared as encroached and wrongly notice under section 6(2) has been issued to the petitioner to vacate her dwelling house



within a period of fortnight which is situated at Mauza Maner, Tauzi No. 3126, Khata No. 330, Khesra No. 667, without considering the fact that vague notices were issued to the petitioner; no proper opportunity of hearing was granted to her to present her case. The learned Circle officer has passed the impugned order in haste and in malafide manner.

(d) For issuance of a writ in the nature of mandamus directing the respondent authorities to not disturb the dwelling house of the petitioner over which their ancestors have been residing for the last 100 years with valid right, title and interest. The respondent authority be directed to consider that dwelling house can be vacated only in accordance with law as laid down by the Hon'ble Supreme Court.”

2. At the outset, the learned counsel for the petitioner submits that the final order, which has been passed by the Circle Officer, Maner, Patna on 05.04.2023, under Section 6(1) of the Bihar Public Land Encroachment Act, 1956, in connection with Encroachment Case No. 11 of 2022-23, has already been challenged by the petitioner by filing an appeal, before the District Magistrate, Patna, under Section 11 of the Bihar Public Land Encroachment Act, 1956, hence some protection is sought, during the interregnum period, in order to enable the petitioner to



obtain interim relief.

3. Per contra, the learned counsel for the respondent-State submits that in case the aforesaid appeal is still pending consideration, the same would definitely be disposed off, within a stipulated time frame, as is fixed by this Court.

4. Having regard to the facts and circumstances of the case, I deem it fit and proper to direct the District Magistrate, Patna, Bihar to consider the aforesaid appeal filed by the petitioner and pass a reasoned and a speaking order, in accordance with law, within a period of six weeks from today and till then no coercive action shall be taken against the petitioner.

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

(Mohit Kumar Shah, J)

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