

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18472 of 2023

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Baleshwar Ray @ Baleshwar Prasad Ray Son of Late Karam Ray, Resident of Village and P.O.- Inayatpur, P.S- Patory, Dhamaun, District- Samastipur, Bihar- 848504.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The District Magistrate, Samastipur.
3. The Deputy Development Commissioner cum Secretary, Zila Parishad, Samastipur.
4. The Sub Divisional Officer, Patory, Samastipur.
5. The Circle Officer, Patory, Samastipur.
6. The Officer-in-charge, P.S-Patory, Distt. Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Arvind Kumar, Adv.
For the Respondent/s : Mr.Md.Harun Quareshi, AC to SC-01

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 21-06-2024 1. The present writ petition has been filed seeking the following relief(s):-

“1.(i) For issuance of a writ in the nature of writ of Certiorari quashing notice dated 02.12.2022 whereby the Circle Officer, Patory in Encroachment Case 01/2017-18 declaring the petitioner an encroacher of public land has asked the petitioner to explain as to why encroachment from a public land bearing Khata no. 640, Khesra no. 557, area 8 decimal be not removed.

(ii) For issuance of a writ of Certiorari quashing subsequent notice dated 22.12.2022 passed in aforesaid encroachment case no. 01/17-18 issued under section 3(1) by Circle Officer, Patory



whereby the petitioner has been asked to appear on 24.12.2022 with original/ certified copy of documents.

(iii) For issuance of a writ of mandamus restricting the officers of Zila Parisahad, Patory from making any construction on the land of petitioner and directing them to demolish boundary wall constructed by them on the land of the petitioner.”

2. At the outset, the learned senior counsel for the petitioner submits that in response to the notice dated 02.12.2022, issued by the Circle Officer, Patory, in connection with Encroachment Case No.01 of 2017-18, wherein the petitioner has been arrayed at serial no.12, as also in response to the notice dated 22.12.2022, the petitioner has already filed his objection on 19.10.2023, wherein it has been stated that the petitioner had filed a petition under Section 106 of the Bihar Tenancy Act, before the competent Officer, Patory, whereafter the said Officer, vide order dated 02.06.2008, has directed for making correction in the Survey Kathiyan and then the requisite correction has also been made, hence the Circle Officer, Patory be directed to consider the same and pass appropriate orders under Section 6(1) of the Bihar Public Land Encroachment Act, 1956, and during the interregnum period,



some protection be granted.

3. Per contra, the learned counsel for the respondent-State submits that in case the final order under Section 6(1) of the Bihar Public Land Encroachment Act, 1956, has not been passed by the Circle Officer, Patory, the same would definitely be passed within a fixed 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 Circle Officer, Patory to consider the aforesaid objection filed by the petitioner on 19.10.2023 (Annexure-12 to the present writ petition), as also the order dated 02.06.2008, passed by the competent Officer and pass the final order under Section 6(1) of the Bihar Public Land Encroachment Act, 1956, in case the same has not already been passed, in accordance with law, within a period of six weeks of receipt/production of a copy of this order 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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