

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No. 2887 of 2024**

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Navin Singh @ Navin Kumar Sharma S/o- Late Yogendra Prasad Singh @  
Late Yogendra Prasad Sharma R/o- Village and P.O.- Ghoswari, P.S.-  
Bakhtiyarpur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Revenue and Land Reforms Department.
2. Additional Chief Secretary, Revenue and Land Reforms Department,
3. Collector, Patna.
4. Anchal Adhikari, Bakhtiyarpur, District- Patna.

... .. Respondent/s

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**Appearance:**

For the Petitioner/s : Mr. Shrinandan Prasad Singh, Sr. Advocate  
Ms. Prakritita Sharma, Adv.  
For the State : Mrs. Archana Meenakshee, GP-6

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**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**

**CAV JUDGMENT**

**Date: 12-02-2025**

The present writ petition has been filed for quashing the notice dated 16.12.2023, issued by the Circle Officer, Bakhtiyarpur, Patna, i.e. the Respondent No. 4, whereby and



whereunder the petitioner has been asked to present his side of the factual facts on 30.12.2023, by appearing personally or through a representative who can put forth the defence of the petitioner with regard to the encroachment made over gairmazarua aam / malik land, appertaining to Khata No. 322, Khesra No. 906 (encroached area ad-measuring 412.5 square feet), situated at Mauza-Ghoswari, District-Patna, failing which proceedings shall be initiated under the provisions of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as “the Act, 1956”).

2. The brief facts of the case, according to the petitioner, are that the aforesaid land in question was settled by the then zamindar in favor of the forefather of the petitioner long before the cadastral survey had taken place in the district of Patna and during cadastral survey it was found that the house of the forefather of the petitioner was situated over the land in question. Nonetheless, the aforesaid notice dated 16.12.2023 has been sent by the Respondent No. 4 to the petitioner. Thereafter, the petitioner had appeared before the Respondent No. 4 and asked for time for filing show cause which was subsequently filed by the petitioner, however without hearing the petitioner, the Respondent No. 4 has issued a notice dated 18.1.2024, in



connection with Encroachment Case No. 11 of 2022-23, informing the petitioner that an order has been passed under the provisions of the Act, 1956 for removing the encroachment made over the aforesaid land, which has been found to be a gairmazarua aam land. It is submitted by the learned Senior Counsel for the petitioner that though the petitioner had contacted the office of the Respondent No. 4, however, a copy of the final order passed by the Respondent No. 4 under the provisions of the Act, 1956, has not been provided to the petitioner. It is further submitted by the learned Senior Counsel for the petitioner that the action of the Respondent No. 4 is illegal and the land in question is not a public land, thus, no order can be passed under the provisions of the Act, 1956.

3. *Per contra*, the learned counsel for the Respondents has submitted, by referring to the counter affidavit filed in the present case that the Respondent No. 4 had initiated encroachment proceedings, vide Encroachment Case No. 11 of 2022-23, after the Revenue Karamchari had made an enquiry and submitted a report wherein it has been stated that as per the survey khatian, the land in question, appertaining to Khata No. 322, Plot No. 906, situated at Mauza-Ghoswari, District-Patna, is a gairmazarua aam malik land. The Circle Amin had also



submitted a report dated 15.5.2023 along with a map before the Respondent No. 4, wherein also it has been found that four persons have constructed their houses over the land in question, which is a gairmajarua malik land. A notice dated 16.12.2023 was then issued by the Respondent No. 4 under Section 3 of the Act, 1956 to the encroachers including the petitioner to appear on 30.12.2023 and submit evidence / document with regard to their claim over the gairmazarua aam malik land, however, no concrete proof was submitted by the encroachers / petitioner, hence the Respondent No. 4 considering all the materials on record has passed an order dated 15/18.1.2024, under Section 6(1) of the Act, 1956, finding the aforesaid land in question to be a gairmazarua aam malik land and holding the petitioner and others to be encroachers, who have encroached the aforesaid government land. It is pointed out that the aforesaid order dated 15/18.1.2024, passed by the Respondent No. 4, in connection with Encroachment Case No. 11 of 2022-23, was challenged by one another encroacher, namely Bipin Singh, by filing a writ petition bearing CWJC No. 2888 of 2024, however, the said writ petition has stood disposed off vide order dated 18.11.2024, upon liberty having been sought by the learned counsel for the petitioner of that case, who is also the counsel in the present



case, to challenge the said order dated 15/18.1.2024, by filing appropriate appeal. Thus, it is submitted that similar order be passed in the present case as well.

4. I have heard the learned counsel for the parties and perused the materials on record from which it is apparent that the petitioner had participated in the aforesaid encroachment proceedings voluntarily and had not challenged the same inasmuch as he had filed a show cause reply, as has been stated in paragraph no. 7 of the present writ petition, hence now when the final order has been passed by the Respondent No. 4 under Section 6(1) of the Act, 1956, the petitioner has to take recourse to the appropriate remedy provided for under the provisions of the Act, 1956, i.e. filing an appeal under Section 11 of the Act, 1956 against the aforesaid order dated 15/18.1.2024. This Court further finds that all the issues being raised by the petitioner in the present writ petition can very well be raised before the appellate authority, especially in view of the fact that no cogent proof has been produced by the petitioner with regard to his right / title over the aforesaid land in question and instead it has been merely stated that the names of his ancestors were recorded in the khatiyani which has not stood substantiated or corroborated till date by any evidence brought forth by the



petitioner inasmuch as there is no whisper in the entire writ petition about any zamabandi existing in favor of the petitioner with regard to the aforesaid land in question. Last but not the least, the petitioner has failed to challenge the order dated 15/18.1.2024 passed by the respondent No. 4 under Section 6(1) of the Act, 1956, hence the relief sought for in the present writ petition i.e quashing of the notice dated 16.12.2023, issued by the respondent No. 4 has become fossilised. It is a well-settled law that when a statutory forum is created by law for redressal of grievances and an aggrieved person has an effective alternative remedy, a writ petition should not be entertained ignoring statutory dispensation. Reference in this connection be had to the judgment, rendered by the Hon'ble Apex Court in the case of *Nivedita Sharma vs. Cellular Operators Association of India*, reported in *(2011) 14 SCC 337*.

5. Having regard to the facts and circumstances of the case and for the foregoing reasons, I deem it fit and proper to grant liberty to the petitioner to challenge the aforesaid order dated 15/18.1.2024, passed by the Respondent No. 4, in connection with Encroachment Case No. 11 of 2022-23, by filing appropriate appeal under Section 11 of the Act, 1956 and in case, appropriate appeal is filed within a period of four weeks



from today the same shall be decided by the appellate authority within a period of four weeks, thereafter and till then no coercive action shall be taken against the petitioner.

6. Accordingly, the present writ petition stands disposed off on the aforesaid terms.

**(Mohit Kumar Shah, J)**

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| AFR/NAFR          | NAFR       |
| CAV DATE          | 16.12.2024 |
| Uploading Date    | 12.02.2025 |
| Transmission Date | NA         |

