

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11945 of 2016

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Sarwar Abdin S/o Late Moinul Abdin resident of Mohalla- Sandalpur, P.S.
Bahadurpur, P.O. Mahendru, District- Patna-6.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate Cum Collector, Patna.
3. The Deputy Collector Land Reforms, Patna City, Patna.
4. The Sub-Divisional Officer, Patna City, Patna.
5. The Circle Officer, Patna City, Patna.
6. The Officer-Incharge, Bahadurpur Police Station, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Gautam Kumar Kejriwal
For the Respondent/s : Mr.Aag- S.Raza Ahmad

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

3 25-06-2025 Heard Mr. Gautam Kumar Kefriwal, learned counsel

for the petitioner and Mr. S. Raza Ahmad, AAG-5, learned

counsel for the State.

2. The petitioner has approached this Court with a
prayer for restraining the respondents from causing any
demolition of the boundary wall of the plot belonging to the
petitioner as described in detail in paragraph 4 of the writ
petition which has been marked by the staff of the respondent
No.3 to 5 with verbal direction to remove alleged encroachment
without any prior notice, hearing and decision in terms of the
provisions of Bihar Public Land Encroachment Act, 1956. The



petitioner has further prayed for issuance of a writ in the nature of mandamus directing the respondents concerned to first cause a measurement of the aforesaid plot of land in presence of the petitioner and take further steps in terms of the provisions of the Bihar Public Land Encroachment Act, 1956 before any drastic action of demolition of the existing boundary wall is undertaken. Further prayer has been made by the petitioner for issuance of a declaration that the impugned action of the respondents in straightway marking the boundary wall of the land premises belong to the petitioner with verbal instructions for removal of the alleged encroachment without any prior notice nor any opportunity of hearing nor any order of the competent authority passed for the purpose of determination of the extent of encroachment made by the petitioner is illegal, unreasonable and violative of principles of natural justice.

3. On 29.07.2016, this Court had noted the contention advanced by learned counsel appearing for the petitioner and in the said order it was acknowledged that the petitioner had placed on record a photograph appeneded as Annexure 2, from perusal of which it appeared that some marking upon the boundary wall have been put by the contractor of the State authorities.



4. The respondent-State was directed to take instruction in the matter and file counter affidavit.

5. The respondents State has filed counter affidavit and in paragraph 5 and 6, they have stated as follows :-

“5 That the instant writ petition has been filed respondents for restraining the respondents from causing any demolition of the boundary wall of the school premises functional in the plot of land situated at Khata No. 364, Plot No. 759, Tauzi No.-303, Ward No. 15/21, having an area 681 Sq. ft. in Mauza-Sandalpur, P.O.-ft. in Mahendru, Sultanganj, District Patna.

6) That it is needful to state that the respondents have not taken any action for removal of encroachment on the aforesaid land and if there is any encroachment done by the petitioner then it will be done only after proper measurement and issuance of notice to the petitioner and following the provisions as contained in the the the Bihar Public Land Encroachment Act 1956.

6. Since the respondent State has categorically made statement that they have not taken any action for removal of encroachment on the aforesaid land and if there is any encroachment done by the petitioner then the encroachment would be removed following the due procedure of law as provided under Bihar Public Land Encroachment Act, 1956.

7. In view of this categorical statement made by respondent-State, the learned counsel for the petitioner submits that he would be satisfied if the present writ application is disposed of in terms of aforesaid statement of the respondent-State with an observation that in future, any proceeding if is



initiated by the respondent-State authorities for removal of any encroachment, then the same would be carried on in accordance with provisions under Bihar Public Land Encroachment Act, 1956 after giving due opportunity of hearing to the petitioner.

8. The learned counsel for the State has no objection to this statement made by learned counsel for the petitioner.

9. As prayed for by learned counsel for the petitioner, the present writ application is disposed of in the light of the aforesaid statement made by the State authorities in paragraph 5 and 6 on its counter affidavit with the observation that if in the future, steps are taken for removal of encroachment then the due process of law as per Bihar Public Land Encroachment Act, 1956 shall be adhered to and also due opportunity of hearing shall be given to the petitioner.

10. With the aforesaid observation and direction, the present writ application is disposed of.

(Alok Kumar Sinha, J)

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