

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6094 of 2015

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Mahendra Chouhan Son of Ram Lakhan Nonia @ Ram Chandra Chouhan,
resident of village- Mansara, P.O. Khadiha, P.S. Simra, Block - Kutumba,
District- Aurangabad Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate Aurangabad, Bihar.
3. The Sub- Divisional Officer, Aurangabad, Bihar.
4. The Circle Officer, Block , Kutumba, Aurangabad, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Amarendra Kumar Singh, Adv
For the State	:	Mr. Pankaj Kumar, SC-12
		Mr. Sudama Kumar, AC to SC-12

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

6 16-07-2025 Heard learned counsel for the petitioner and learned
counsel appearing for respondent-State.

2. The present writ application has been filed for setting aside the notice dated 23.03.2015 (Annexure-4) which has been issued in purported exercise of power under Section 6(2) of the Bihar Public Land Encroachment Act, 1956 by respondent no. 4, the Circle Officer, Kutumba District- Aurangabad, whereby and whereunder the petitioner has been directed to remove the alleged encroachment from Khata No. 54, Plot No. 294, Thana No. 417, area 0.06 acre within village Mansara, District- Aurangabad.

3. The only legal question that arises for consideration in this case is whether the impugned notice which has been issued in exercise of power under Section 6(2) of the Bihar



Public Land Encroachment Act, 1956 is preceded by an order passed under Section 6(1) of the said Act or not? If not, then whether the Circle Officer, Kutumba had the authority in law to issue the impugned notice?

4. During the course of argument, learned counsel for the respondent-State was asked to show the order which may have been passed under Section 6(1) of the said Act but he fairly admits that no such order was passed under Section 6(1) of the Bihar Public Land Encroachment Act, 1956.

5. Under the aforesaid circumstances, when no formal order has been passed by the respondent-authority under Section 6(1) of the Bihar Public Land Encroachment Act, 1956, the Circle Officer, Kutumba did not have the authority in law to issue the impugned notice dated 23.03.2015 in exercise of power under Section 6(2) of the said Act. Manifestly, the notice dated 23.03.2015 has been illegally issued without the authority of law and hence, the same is quashed and set aside.

6. The writ application is allowed to the aforesaid extent.

(Alok Kumar Sinha, J)

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