

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**W.P. (C) No.3348 of 2021**  
**With**  
**I.A. No.4621 of 2021**

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Shambhu Prasad	-----	..... Petitioner.
-Versus-		
The State of Jharkhand & Ors.		..... Respondents.

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**CORAM : HON'BLE MR. JUSTICE RAJESH SHANKAR**

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For the Petitioner	:	Mr. Sumeet Gadodia, Advocate
For the State	:	Ms Pinki Tiwary, A.C. to A.G.

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**Order No.02**

**Date: 03.09.2021**

This case is taken up through video conferencing.

The present writ petition has been filed for quashing the order dated 24<sup>th</sup> September, 2018 passed by the Circle Officer, Jamshedpur-respondent no.3 in B.P.L.E. Case No.67 of 2015-16, whereby the petitioner has been directed to remove encroachment from the public land, appertaining to Khata no.446, plot no.55, Mouja Kitadih, Thana no.1167, measuring an area of 0.19 acre. Further prayer has been made for quashing the notice dated 28<sup>th</sup> August, 2021, whereby the petitioner has been directed to remove encroachment by 30<sup>th</sup> August, 2021 pursuant to the order dated 24<sup>th</sup> September, 2018 passed in B.P.L.E. Case no.67 of 2015-16 failing which the encroachment would be removed by use of force. The petitioner has also prayed for quashing the notice dated 31<sup>st</sup> August, 2021, whereby he has been directed to remove encroachment from the aforesaid land by 5<sup>th</sup> September, 2021.

Mr. Sumeet Gadodia, learned counsel for the petitioner, while referring to the copy of the order sheet of B.P.L.E. Case no.67 of 2015-16, submits that pursuant to the notice issued under Section 3 of the Bihar (now Jharkhand) Public Land Encroachment Act, 1956 (hereinafter to be referred as 'the Act, 1956'), the petitioner filed his show cause reply and, thereafter, the next date of hearing was fixed on 12<sup>th</sup> May, 2016, however, no further proceeding was thereafter conducted in the said case and after lapse of more than two years, the case was again taken up by the respondent no.3 on 5<sup>th</sup> September, 2018. The case was again listed on 15<sup>th</sup> September, 2018 and thereafter on 24<sup>th</sup> September, 2018 and on the said date the order

under Section 6(2) of the Act, 1956 was passed, directing the petitioner to remove the alleged encroachment within fifteen days. The orders dated 5<sup>th</sup> September, 2018 and 15<sup>th</sup> September, 2018 as well as 24<sup>th</sup> September, 2018 would itself suggest that the petitioner was absent reasonably so because after filing of show cause reply, the case was not taken up for about two years and the petitioner was never issued fresh notice so as to make him aware regarding pendency of the said case. Consequently, since the petitioner was completely unaware of passing of the order dated 24<sup>th</sup> September, 2018 by the respondent no.3, he could not take appropriate recourse against the said order in time. Again after lapse of about three years, the notices dated 28<sup>th</sup> August, 2021 and 31<sup>st</sup> August, 2021 have been issued to the petitioner, directing him to remove the alleged encroachment from the land in question. Pursuant to the said notice dated 28<sup>th</sup> August, 2021, a part of the structure standing over the land in question has also been removed by the respondent authorities. Under the aforesaid circumstance, the petitioner filed an interlocutory application, being I.A. No.4621 of 2021, praying therein for issuance of direction upon the respondents to stay their hands from further removal of the alleged encroachment from the land in question.

Ms Pinki Tiwary, learned A.C. to A.G., appearing on behalf of the respondents, prays for and is allowed four weeks' time to seek instruction and file counter affidavit.

Put up this case under appropriate heading on 21<sup>st</sup> October, 2021.

Till then, the respondents shall not proceed further for removal of the alleged encroachment from the land in question in connection with B.P.L.E. Case no.67 of 2015-16.

In the meantime, learned counsel for the petitioner, shall remove the defect(s), as pointed out by the office.

I.A. No.4621 of 2021 is disposed of.

**(Rajesh Shankar, J.)**