

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (C) No. 1975 of 2020**

Basudeb Auto Centre, through its Director namely, Sarita Kataruka, aged about 59 years, Wife of Late Dilip Kumar Kataruka, resident of Kataruka Niwas, Lake Avenue, Kanke Road, Konge, P.O.& P.S.- Gonda Ranchi, District-Ranchi, Jharkhand. **Petitioner**

Versus

1. The State of Jharkhand through the Chief Secretary Government of Jharkhand, having its office at project Building, Dhurwa, P.O.- Dhurwa, P.S- Jargarnathpur, District-Ranchi, Jharkhand
2. The Deputy Commissioner, Ranchi, P.O., P.S. & District-Ranchi, Jharkhand
3. Land Reforms Deputy Collector, Ranchi, P.O. P.S. & District-Ranchi, Jharkhand
4. Additional Collector, Ranchi, P.O., P.S. & District-Ranchi, Jharkhand.
5. The Circle Officer, Nagri, P.O. & P.S.-Nagri, District-Ranchi, Jharkhand **Respondents**

CORAM: HON'BLE MR. JUSTICE AMITAV K. GUPTA

For the Petitioner :Mr. Ayush Aditya, Advocate
For the State :Mr. Piyush Chitresh, AC to AG

02/Dated: 29.07.2020

1. The writ has been filed for quashing the notice, published in the newspaper namely Prabhat Khabar, Ranchi Edition, dated 22.07.2020 issued under the signature of Circle Officer, Nagri with respect to Item No.39, i.e., Encroachment Case No.10/2017-18 pertaining to Khata No.383, bearing Plot No.496, Area-75 decimals and for staying the further proceeding of Encroachment Case No.10/2017-18.
2. Learned counsel for the petitioner has submitted that the petitioner is a lessee of Sri Govindram Kataruka Charity Trust. It is further submitted that Basudeb Kataruka (now deceased) had purchased 3.85 acres of land of Khata No.383 plot no.496 by registered sale deed no.3467 dated 29.07.1963 and the sale deed no.5424 dated 15.11.1962. Late Basudeb Kataruka had created a trust and executed a registered deed of trust and a part of the land was leased to the petitioner. It is submitted that the petitioner was noticed under Section 3 of the Bihar/Jharkhand Public Land Encroachment Act and was directed to file a reply on 29.07.2017 in Encroachment Case No.10/2017-18 and the landlord was also served with a notice in Encroachment Case No.09/2017-18. It is urged that though reply was not filed in Encroachment Case no.10/2017-18 but a reply was filed in Encroachment Case No.09/2017-18 detailing the facts regarding the purchase of 45 decimals of land of Khata No.383 by late Basudeb Kataruka from the vendors namely Sk. Ajmat and Sk. Sahamat and 3.40 acres of land of the aforesaid

khata no. and plot no. from Sk. Sahadul and others. The right, title and interest of the vendors was confirmed by the Supreme Court in SLP No.8279 of 2009. It is submitted that the Circle Officer issued the notice under Section 6 of the Act without passing any final order and without giving an opportunity of hearing as prescribed under Section 5 of the BPLE Act and has published the notice for demolition of the structure in Encroachment Case No.10/2017-18. It is argued that the notice has been issued without following the procedure of law and in gross violation of principles of natural justice.

3. Mr. Piyush Chitresh, learned AC to AG has submitted that as per Annexure-2 of the instant writ it would be evident that the petitioner had filed a reply in Encroachment Case No.09/2017-18, but, no reply was filed to the notice issued in Encroachment Case No.10/2017-18, accordingly the impugned notice was issued by Circle Officer, Nagri in the aforesaid case.

Learned counsel for the State prays for time to ascertain whether any final order was passed under Section (6) of the BPLE Act and communicated to the petitioner.

4. Heard. It is evident from the notice that there is no recital of any order having been passed under Section 6 of the BPLE Act. In the given circumstances the petitioner is given the liberty to file his reply to the notice in Encroachment Case No.10/2017-18. He shall be present before the Circle Officer with the relevant documents within three weeks from the date of receipt/production of this order and the Circle Officer, after giving an opportunity of hearing to the petitioner, shall pass necessary order, if not already passed, in accordance with law. Till the passing of the final order and its communication to the petitioner the impugned notice dated 22.07.2020 shall be kept in abeyance.

5. With the aforesaid direction the writ petition is, hereby, disposed off.

(AMITAV K. GUPTA, J.)