

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (C) No. 1979 of 2020**

Ganesh Burman @ Ganesh Poddar, aged about 54 years, son of Mahadev Poddar, resident of village- Choukunda, P.O.- TK Gram, P.S.- Fatehpur, Dist,- Jamtara **Petitioner**

Versus

1. The State of Jharkhand
2. The Circle Officer, Fatehpur, P.O. & P.S.- Fatehpur, Dist.- Fatehpur
3. The Deputy Commissioner, Jamtara, P.O. & P.S.- Jamtara, District- Jamtara
4. The Secretary of Building Construction Department, Government of Jharkhand, Project Bhawan, Dhurwa, P.O. & P.S.- Dhurwa, District - Dhurwa **Respondents**

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

For the Petitioner :Mr. Shresth Gautam, Advocate
For the State :Mr. M.K.Dubey, AC to AG

02/Dated: 29.07.2020

1. Learned counsel for the petitioner undertakes to remove the defects, as pointed out by the office, on resumption of normal functioning of Court.

2. It is submitted that on receipt of notice dated 24.12.2019 issued by the Circle Officer Fatehpur, District- Jamtara, the petitioner had filed his reply detailing the facts relating to his lawful possession of land of Plot No.208, Khata No.65, measuring 2.00 acres. It is argued that the Circle Officer without giving an opportunity of hearing to the petitioner issued the notice, dated 17.01.2020, directing the petitioner to vacate the aforesaid plot of land.

Learned counsel has submitted that the lands were given to the petitioner by Bihar Bhoodan Yagna Act, 1954 and the petitioner has paid the land rent till 2015, as would be evident from the Annexure-3 series. The land was mutated in the name of the petitioner vide Annexure-2.

It is submitted that in ***Meghamala Vs. Narasimha Reddy; (2010) 8 SCC 383***, it has been held by Hon'ble Supreme Court that the State authorities cannot dispossess a person by executive order, and the government can resume possession only in a manner known to or recognized by law and not otherwise.

On the above ground it is submitted that the notice dated 24.12.2019 issued by the Circle Officer Fatehpur, District- Jamtara, deserves to be quashed.

3. Mr. M.K. Dubey, learned AC to AG has submitted that he shall file the counter affidavit after obtaining necessary information for the Circle Officer, Fatehpur, as in the the writ petition it is stated that construction is being made by the State

authorities. It is submitted that the instant writ petition is not maintainable because the petitioner has efficacious remedy under Section 14A of the Bihar Bhoodan Yagna Act, 1954, to challenge the order by filing an appeal before the appropriate authority.

4. Heard. Time as prayed for, is granted to the learned counsel for the State to file the counter affidavit. If no order has been passed on the reply filed by the petitioner then the Circle Officer, shall pass a reasoned and speaking order after giving an opportunity of hearing to the petitioner who shall appear before the Circle Officer, Fatehpur, within three weeks from the date of receipt/production of the order.

5. Let a copy of the order be communicated to the Circle Officer, Fatehpur, and to the learned AC to AG, for needful.

6. Office to list the matter on **21st August, 2020.**

(AMITAV K. GUPTA, J.)

Tarun/-