

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6067 of 2015

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1. Ashok Kumar Yadav, son of Late Roop Narayan Yadav, Resident of Mohalla - Ranipur, P.S.- Mehdiganj, District - Patna.
 2. Binod Kumar, Son of Late Bihari Mahto, Resident of Mohalla - Ranipur Neemtar, Patna City, P.S.- Mehdiganj, District - Patna.

.... Petitioners

Versus

1. The State of Bihar, through the Commissioner, Patna Division, Patna.
2. District Magistrate, Patna Collectorate, Patna.
3. Circle Officer, Patna Sadar, Police Station - Gandhi Maidan, District - Patna.
4. Karamchari (Village Level Worker), Patna Sadar, Patna.
5. Station House Officer, Mehdiganj Police Station, Patna City, District - Patna.
6. Arun Kumar Verma. Son of Late Sheonandan Verma.
7. Anuj Kumar Verma. Son of Late Kamta Prasad Verma. Respondents no.6 and 8 are resident of Mohalla - Ranipur Khirki, Uppari Gali, P.S.- Mehdiganj, District - Patna.
8. Sayad Shah Mohiuddin. Son of Late Sah Gulam Khaje. Resident of Mohalla - Chandupur, P.S.- Biharsharif, District - Nalanda at Biharsharif.
9. Anjani Sinha, Son of Late Awadh Prasad, Resident of Mohalla - Ranipur, Police Station - Khjekalan, Patna City, at present residing at Ayusbial Palace, Fatwa, P.S.- Khusrupur, District - Patna, at presiding residing at Rajendra Nagar, Road No. 6-A holder of Registered Power of Attorney.
10. Ramadhar Prasad.
11. Manoj Kumar.
12. Baijnath Prasad. All 10 to 12 son of not known. Resident of Mohalla - Chiranyantarnd-Karbigahiya, P.S.- Jakkanpur, District - Patna.
13. Additional Collector (Land Reforms), Patna City, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ajay Prasad, Adv.

For the Respondent/s : Mr. Kaushal Kumar Jha, AAG-14

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 13-07-2015

This writ petition is filed by way of Public Interest Litigation. The petitioners' grievance is that substantial extent of land in Khesra Nos.2702, 2745 and



2800 at Ranipur, Patna City, has been encroached by large number of persons, including the private respondents herein. On earlier occasion, petitioner No.1 filed C.W.J.C. No.5874 of 2014 with a prayer to direct the officials to remove the encroachments and it was disposed through order dated 3.4.2014 by a Division Bench of this Court, expressing the view that they are not persuaded to entertain the Public Interest Litigation, but it shall be open to the petitioners to avail the remedies under Section-147 of Cr.P.C. or Bihar Land Encroachment Act.

The petitioners submitted a representation before the District Magistrate, Patna. An order was passed therein on 10.1.2015, observing that the classification of the land has been changed in favour of certain private individuals. The land is basically 'Gair Muzurua Public Aam Rasta, Nala, PAN, Garha' and that the Circle Officer and other officers directed not only to cancel the Jamabandi, but also to evict the encroachers duly following the procedure prescribed by law. The grievance of the petitioners in this writ petition is that no steps have been taken to implement the order passed by the District Magistrate. When the matter was listed before us on 22.6.2015, we directed notice to the private respondents.

Heard Shri Ajay Prasad, learned counsel for the petitioners and Shri Kaushal Kumar Jha, learned counsel for the respondents.

This is the 2nd time that the petitioner has approached this Court by way of Public Interest Litigation, on the same issue. The only difference is that subsequent to the order dated 3.4.2014 passed by this Court in C.W.J.C. No.5874/14 the petitioner approached the District Magistrate who, in turn, passed the order dated 10.1.2015.

A perusal of the order dated 10.1.2015 discloses that several findings, as regards classification and nature of the land have been recorded, however, without ensuring that the affected parties are heard. Today it is brought to our notice by the learned counsel for the 8th respondent that against the order dated 10.1.2015, passed by the District Magistrate, an Appeal has been preferred by the Divisional Commissioner, Patna. If that is so, the petitioner cannot seek relief in this petition. He has to wait for the outcome of the Appeal.

Writ application is therefore closed, leaving it open to the petitioners to participate in the Appeal which is now said to be pending before the Divisional

Commissioner, Patna.

Interlocutory application, if any, stands disposed of.

There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Anjana Mishra, J)

K.C.jha/-
N.A.F.R.

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