

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14812 of 2015

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1. Raj Kishore Prasad, Son of Shri Krishna Sao, resident of village Bajanathpur, P.S. Khizarsarai (Near Dhura Par) Thana No.49, Khizarsarai, at District- Gaya.
 2. Upendra Sao, Son of Late Tulsi Sao, Resident of Village Baijnathpur (Near Dhura Par), P.S. Khizarsarai, Thana No.49 (Khizarsarai) at District- Gaya.

.... Petitioners

Versus

1. The State of Bihar
 2. The District Magistrate, Gaya at District- Gaya.
 3. The Sub-Divisional Officer, Khizarsarai, Gaya at District Gaya
 4. The Deputy Collector, Land Reforms (D.C.L.R.) Nimchak Bathani, Khizarsarai, Headquarter, Khizarsarai at District Gaya.
 5. The Circle Officer, Khizarsarai, P.S. Khizarsarai at District- Gaya.
 6. Yugal Mahto S/o Mahendra Mahto
 7. Naghan Mahto Son of Late Raghubir Sao null
 8. Pachu Taku, S/o Late Kali Thakur
 9. Kali Sao S/o Late Sohari Sao,
 10. Raju Ram S/o Late Sachindra Ram,
 11. Ravindra Vishwakarma, S/o Rajendra Vishkarma
 12. Rajendra Vishkarma S/o Late Keshar Vishkarma
- All Respondent Nos.6 to 12, Resident of Village- Pachmahata (Baijnathpur), P.S. Khizarsarai at District- Gaya.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Sinha, Advocate

For the Respondent/s : Mr. Manoj Kumar Sinha, AC to SC-30

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 07-10-2015

Heard learned counsel for the petitioners and the State.

At the time of hearing of this application, the petitioners confine the relief sought in the writ application to the public/Govt. land only and not for removal of encroachment from their private land.

It is contended on behalf of the petitioners that private

respondents have encroached upon the Government land for which they had approached the DCLR, Bathani, Khizarsarai, Gaya who had referred the matter to the Anchaladhikari, Khizarsarai, Gaya for taking action in accordance with law.

It is further contended that the matter has been enquired into and in the enquiry report submitted by the Anchal Amin dated 18.12.2014, which has been brought as Annexure-2, shows encroachment upon Govt. land as well as private land of the petitioners. It is contended that the petitioners, though have approached the District Magistrate also, however, no decision has been taken in the matter as yet.

Accordingly, I dispose of this writ application, without going into the merit of the case, with a direction to the Anchaladhikari, Khizarsarai, Gaya to examine the matter and if he finds that there has been encroachment upon public or govt. land then he would be required to initiate a proceeding and issue notice against the encroachers under Section 3 of the Bihar Public Land Encroachment Act, 1956. He would be required further to take a final decision in accordance with law and procedure laid down under the aforesaid Act bringing the proceeding to its logical conclusion after granting reasonable opportunity to all the concerned. In case, he is not satisfied with the claim of the petitioners and disagrees with

the report of the Anchal Amin then he would not be required to issue notice to anybody but in such a situation, he would be required to pass a reasoned order. If the Circle Officer is of the opinion that there is encroachment upon govt. land as per the claim of the petitioners then he would be required to conclude the entire proceeding in accordance with law within a period of six months from the date of receipt/production of a copy of this order. However, if he is not satisfied with the claim of the petitioners then he would be required to pass such order within a period of two months.

It is made clear that, while exercising of such power, he will not consider any encroachment by any person on the private land of the petitioners.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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