

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6598 of 2011

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1. Binod Sahu s/o Bhagwan Lal Sah.
 2. Subelal Sahu s/o Nunu Sah.
 3. Jangli Sah s/o Ramji Sah
 4. Chandeshwar Sahu @ Chandra Shekhar Prasad Sah, S/o Late Ramautar Sah, All resident of Village- Gauspur Sarsona, P.S.- Bangra, District-Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar
2. District Magistrate, Samastipur.
3. Sub-Divisional Officer, Samastipur.
4. Circle Officer Tajpur, Samastipur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. D. K. Tiwari
Mr. Raj Dular Sah

For the Respondent/s : Mr. Ram Subhas Singh, AC to AAG-15

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 11-05-2015 Heard the parties.

The petitioners are aggrieved by the notice dated 23.02.2011 (Annexure-2) issued under the signature of respondent Anchal Adhikari (Circle Officer), Tajpur in the district of Samastipur, whereby the petitioners have been directed to vacate the lands under dispute, failing which a proceeding under The Bihar Public Land Encroachment Act, 1956 shall be initiated against them.

Learned counsel appearing on behalf of the petitioners submits that the land in question is not a public land, rather it is their ancestral land. Therefore, the respondent Circle Officer was not justified in treating the land in question as public land and directing the petitioners to vacate the same within the time prescribed in the impugned notice dated 23.02.2011 (Annexure-2).

The learned State counsel, by referring to the averments



made in the counter-affidavit filed on behalf of the respondent no. 1 to 4, has opposed the prayer made in the present writ petition, but he has not been able to show from the materials available on record that the land in question is a public land. He has further not been able to show that if the land in question was not vacated by the petitioners within 15 days, then whether any proceeding under the Bihar Public Land Encroachment Act, 1956 was started against the petitioners for removal of alleged encroachment from the land in question. The counter-affidavit filed on behalf of the respondent no. 1 to 4 appears to be very sketchy one and has not answered real issue involved in the present proceeding.

In above view of the matter, this Court is of the opinion that the entire matter is required to be examined afresh by the respondent District Magistrate, Samastipur after giving an opportunity of hearing to all concerned. The petitioners are hereby directed to appear before the respondent District Magistrate, Samastipur within a period of one month from today with a certified copy of the present order as also along with a comprehensive representation with all supporting documents raising all the pleas, which have been raised in the present petition. After appearance of the petitioners in the manner indicated above within the time prescribed, the respondent District Magistrate either himself or any other competent authority shall be obliged to consider and decide the claim of the petitioners with respect to the lands under dispute after giving an opportunity of hearing to all concerned, by a reasoned and speaking order, at an early date preferably within a period of three months from the date of appearance of the petitioners in the manner indicated above.

However, if the petitioners fail to appear before the

respondent District Magistrate, within the aforesaid period of time, then it shall be construed that the present writ petition stood dismissed on account of non-compliance of the Court's order.

After appearance of the petitioners and on consideration of the materials, the respondent District Magistrate or any other competent authority of the respondent State, if comes to a conclusion that the claims raised by the petitioners for the land under dispute are valid, then appropriate consequential order shall be issued without any unnecessary further delay.

This is clarified that this Court has not gone into the merits of the claims raised on behalf of the parties with respect to the lands under dispute and this is left to be decided by the respondent District Magistrate, Samastipur or any other competent authority of the respondent State afresh in accordance with law.

It is directed that till the matter is finally decided by the respondent District Magistrate or any other competent authority afresh, the status quo as obtaining today with respect to the lands under dispute shall be maintained by the parties.

The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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