

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14149 of 2013

Kamlesh Sah Son Of Sadhu Sah Resident Of Village - Pathkhauli, Post Office - Bargajwa, Anchal / Police Station - Gaunaha, District - West Champaran

.... Petitioner

Versus

1. The State Of Bihar Through The Collector, Bettiah, District West Champaran
2. The Sub - Divisional Magistrate, Narkatiaganj, Police Station - Shikarpur, District - West Champaran
3. Anchal Adhikari, Anchal/Police Station - Gaunaha, District - West Champaran
4. Sushil Prasad Son Of Late Nathuni Prasad Resident Of Village - Pathkhauli, P.O.- Bargajwa, Anchal / Police Station - Gaunaha, District - West Champaran
5. Kundal Prasad Son Of Late Nathuni Prasad Resident Of Village - Pathkhauli, P.O.- Bargajwa, Anchal / Police Station - Gaunaha, District - West Champaran
6. Kanhaiya Prasad Son Of Late Nathuni Prasad Resident Of Village - Pathkhauli, P.O.- Bargajwa, Anchal / Police Station - Gaunaha, District - West Champaran
7. Krishna Prasad Son Of Late Nathuni Prasad Resident Of Village - Pathkhauli, P.O.- Bargajwa, Anchal / Police Station - Gaunaha, District - West Champaran
8. Kailash Prasad Son Of Late Nathuni Prasad Resident Of Village - Pathkhauli, P.O.- Bargajwa, Anchal / Police Station - Gaunaha, District - West Champaran

.... Respondents

with

Civil Writ Jurisdiction Case No. 17259 of 2014

1. Sushil Prasad & Sunil Prasad
2. Kundal Prasad
3. Kanhaiya Prasad
4. Krishna Prasad
5. Kailash Prasad All are sons of Late Nathuni Prasad, Resident of Village-Pathkhauli, P.O.-Barjgajwa, P.S.-Gaunha, District-West Champaran.

.... Petitioners

Versus

1. The State of Bihar through the Collector, Bettiah, District-West Champaran
2. The Sub-Divisional Magistrate, Nrkatiaganj, P.S.-Shikarpur, District-West Champaran.
3. The Anchal Adhikari, Gaunha Anchal, District-West Champaran.
4. Kamlesh Sah Son of Sadhu Sah Resident of Village-Pathkhauli, P.O.-Barjgajwa, P.S.-Gaunha, District-West Champaran.
5. Jhotil Sah Son of Fagu Sah Resident of Village-Pathkhauli, P.O.-Barjgajwa, P.S.-Gaunha, District-West Champaran.

.... Respondents

Appearance :

(In CWJC No. 14149 of 2013)

For the Petitioner/s : M/s Sunil Kumar and
Madhusudan Pd. Gupta, Advocates
For the State : Mr. Anil Kumar Sinha, GA 9
For the Respondent : M/s R.C.Sinha and Rakesh Ranjan, Advocates
No. 4 to 8

(In CWJC No. 17259 of 2014)

For the Petitioner/s : Mr. Rakesh Ranjan, Advocate
For the State : M/s Anil Kumar Sinha, G.A. 9 and
Nutan Sharma, AC to GA 9
For the Private respondents: Mr. Sunil Kumar, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 11-12-2015

Heard learned counsel for the petitioners, the State and the private respondents.

C.W.J.C. No. 14149 of 2013 has been filed for a direction to the respondent nos. 1 to 3 to remove encroachment from public land described as Gairmaarua Aam (Rasta) as well as Gairmazarua Malik situated in village Patkhauli of plot nos. 297 / 297 appertaining to khata nos. 108 / 109, plot no. 296 297 as well as plot no. 383 whereas C.W.J.C. No. 17259 of 2014 has been filed by the respondent nos. 4 to 8 of the C.W.J.C. No. 14149 of 2013 challenging the notices issued by the Circle Officer, Gaunaha, West Champaran dated 4.9.2014 during the pendency of the aforesaid writ application for getting encroached land vacated.

However, learned counsel appearing for the petitioners of C.W.J.C. NO. 17259 of 2014 has submitted that after the aforesaid

writ application was filed, the Circle Officer in haste has issued notice directing them to vacate the land without holding that actually there has been any encroachment.

Having regards to the facts and circumstances of the case, both the writ petitions are being disposed of with a direction to the Circle Officer concerned to consider the notices as contained in Annexure 1 series of the C.W.J.C. No. 17259 of 2014 to be notices under Section 3(1) of the Bihar Public Land Encroachment Act, 1956 and the petitioner as well as the respondent no. 9 of C.W.J.C. No. 14149 of 2013 would be required to respond to the aforesaid notice by filing their replies which should be considered by the Circle Officer on its own merit and in accordance with law. Thereafter, he would be required to bring the proceeding to its logical conclusion in accordance with law. The whole exercise should be completed within a period of four months from the receipt / production of a copy of this order.

(Dr. Ravi Ranjan, J)

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