

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2164 of 2014

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Rajendra Pandey S/o Late Mishri Pandey, resident of Village Chano, P.S. Durgawati, Distt. Kaimur, A/P Village Mohammad Pur, P.S. Mohania, Distt. Kaimur

.... Petitioner/s

Versus

1. The State of Bihar
2. District Magistrate, Kaimur
3. Additional Collector, Kaimur
4. S.D.O., Mohania, Kaimur
5. B.D.O., Mohania, Kaimur
6. Anchl Adhikari, Mohania, Kaimur
7. Mukhia Gram Panchayat Raj, Bamhaur, P.S. Mohania, Dist. Kaimur
8. The Officer-In-Charge, Mohania Police Station, Dist. Kaimur
9. Ram Bachan Tiwary R/o Village Mohammadpurm, P.S.- Mohania, Dist. Kaimur (Bhabhua)
10. Lal Bachan Tiwary son of Late Harbansh Tiwary R/o Village Mohammadpurm, P.S.- Mohania, Dist. Kaimur (Bhabhua)
11. Parmahansh Tiwary son of Late Ramdeo Tiwary R/o Village Mohammadpurm, P.S.- Mohania, Dist. Kaimur (Bhabhua)
12. Shailendra Kumar Tiwary S/o Jagdish Tiwary R/o Village Mohammadpurm, P.S.- Mohania, Dist. Kaimur (Bhabhua)
13. Akhilesh Kumar Tiwary S/o Jagdish Tiwary R/o Village Mohammadpurm, P.S.- Mohania, Dist. Kaimur (Bhabhua)

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Rewti Kant Raman, Advocate
For the State : Mr. Amit Kumar Anand, AC to GP-15
For the private respondents: Mr. Arabind Nath Patna, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 17-08-2015 Heard Mr. Mahesh Prasad for the petitioner, Mr. Amit Kumar Anand, Assisting Counsel to G.P.-15 for the State and Mr. Arabind Nath Pandey for the private respondents.

The writ petition has been filed with a prayer to the Circle Officer, Mohania in the District of Kaimur to remove the



encroachment made by the private respondents over C.S. Plot No. 204 (R.S. Plot No. 351) of C.S. Khata No. 60 (R.S. Khata No. 115), village-Mohamadpur, P.S. Mohania, Thana No. 463, District-Kaimur after initiating encroachment proceedings under the provisions of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act').

A counter affidavit has been filed on behalf of the Circle Officer and at paragraph-6 and 7 of the counter affidavit it is stated that an encroachment case has been registered against the private respondents bearing Encroachment Case No. 28 of 2013-14. It is stated that the encroachers have also been noticed to respond against the encroachment. In the same paragraph it is also mentioned that the private respondents have appeared and also sought time to file show cause.

Whereas it is the contention of Mr. Mahesh Prasad appearing for the petitioner that the land is in the nature of public land and that the private respondents have made encroachment thereof but the argument has been contested by Mr. Pandey appearing for the private respondents who has denied the same to submit that the private respondents have not encroached on any portion of the public land nor they have made any obstructions in the public passage of the villagers. It is also their contention that

the measurement has not taken place in their presence.

Having heard learned counsel for the parties and considering that the matter is yet pending before the Circle Officer, Mohania in Encroachment Case No. 28 of 2013-14, this Court would refrain from expressing any opinion on the merit of the issue and the application is accordingly disposed of with a direction to the Circle Officer to conclude the encroachment proceedings after due opportunity of hearing to the contesting parties including the petitioner and the private respondents and also after affording due opportunity to them to lead their evidences and after carrying out the measurement to determine the extent of encroachment which should be carried out in the presence of the contesting parties.

An expeditious disposal preferably within six months from the date of receipt / production of a copy of this order would be appreciated.

(Jyoti Saran, J)

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