

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Civil Review No.514 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 12221 of 2016**

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1. Rishidev Pandey
 2. Narvadeshwar Pandey
 3. Sadanand Pandey, all are sons of Late Lal Saheb Pandey
 4. Runa Kunwar, Wife of Late Basudev Yadav
 5. Nain Kunwar, Wife of Late Sachidanand Pandey
 6. Manju Kunwar, Wife of Late Ramsagar Pandey
 7. Sushila Devi, Wife of Hira Yadav
 8. Nanhku Yadav, Son of Late Rupchand Yadav
 9. Ram Awatar Yadav, Son of Late Shiv Prasad Yadav
 10. Suraj, Son of Late Ram Ratan Singh
 11. Luchai Singh
 12. Brahmdeo Singh, both are Sons of Late Achhayabar Yadav
 13. Urmila Devi, Wife of Askaran Yadav
 14. Anwar Yadav, Son of Late Surat Yadav
 15. Ram Sahay Yadav, Son of Late Bikrama Yadav
- All are residents of village Chintamanpur, P.S. Nuaon, District Kaimur at Bhabua.

.... Petitioner/s

Versus

1. The State of Bihar.
 2. The Collector-cum-District Magistrate, Kaimur at Bhabua.
 3. Sub-Divisional Magistrate, Mohaniya, District - Kaimur.
 4. Anchal Adhikari, Nuaon Anchal, District Kaimur.
- Respondents/Opposite Parties 1st Set.
5. Bharath Pandey Son of Late Sri Krishna Pandey Resident of Village - Chintamanpur, P.S. Nuaon, District Kaimur at Bhabua.
-Writ petitioner/opposite party 2nd Set.

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Appearance :

For the Petitioner/s : Mr. Dharmendra Kumar Singh, Advocate
For the State : Mr. Arun Kumar Bhagat, AC to AAG XII
For the Respondent No.5: Mr. Naresh Chandra Verma, Advocate
Mr. Lakshmi Kant Tiwary, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 08-02-2017

The petitioners have sought review of the order passed by this Court on 19th September, 2016 whereby a direction was issued to



the District Magistrate, Kaimur to remove the encroachers within a period of four months.

The grievance of the petitioners is that the District Magistrate is likely to pass an order for eviction without giving notice and/or providing any opportunity of hearing.

Learned counsel for the petitioners refers to a Supreme Court judgment reported as 2016(3) PLJR 268 (SC) [Jagpal Singh & Ors. State of Punjab & Ors.] wherein it was held to the following effect:-

“22. Before parting with this case we give directions to all the State Governments in the country that they should prepare schemes for eviction of illegal/unauthorized occupants of Gram Sabha/Gram Panchayat/Poramboke/Shamlat land and these must be restored to the Gram Sabha/Gram Panchayat for the common use of villagers of the village. For this purpose the Chief Secretaries of all State Governments/Union Territories in India are directed to do the needful, taking the help of other senior officers of the Governments. The said scheme should provide for the speedy eviction of such illegal occupant, after giving him a show cause notice and a brief hearing. Long duration of such illegal occupation or huge expenditure in making constructions thereon or political connections must not be treated as a justification for condoning this illegal act or for regularizing the illegal possession. Regularization should only be permitted in exceptional cases e.g. where lease has been granted under some Government notification to landless labourers or members of Scheduled Castes/Scheduled Tribes, or where there is already a school, dispensary or other public utility on the land.”



In view of the said fact, we modify the order dated 19th September, 2016 so as to clarify that the District Magistrate will pass an order of eviction, if any, after giving an opportunity of hearing and considering the show cause submitted by the alleged encroachers in accordance with law. The District Magistrate shall pass an appropriate order within four months from today.

With the said modification, the civil review application stands disposed of.

(Hemant Gupta, ACJ)

(Anjana Mishra, J)

Sunil/-

AFR/NAFR	N. A. F. R.
CAV DATE	N. A.
Uploading Date	09.02.2017
Transmission Date	

