

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7970 of 2015

1. Gyan Chandra Bhagat @ Kumar Gyan Chandra, Son of Sri Shiv Shankar Bhagat, Resident of Village Gram Panchayat Rupauhali, P.S.- Parbatta, District- Khagaria
2. Md. Noman, Son of Late Sheikh Erakphan, Resident of Village Gram Panchayat Rupauhali, P. S.- Parbatta, District- Khagaria.

... .. Petitioners

Versus

1. The State of Bihar
2. The Collector, Khagaria
3. The District Land acquisition Officer, Khagaria
4. The Additional Collector, Khagaria
5. The sub-Divisional Officer, Gogri, District Khagaria
6. Circle Officer, Parbatta, District Khagaria
7. Babujan Khan , Son of Late Suleman Khan, Resident of Village- Rupauhali P.S.- Parbatta, District Khagaria.
8. Girendra Prasad Chaurasia, Son of Late Jainarayan Das, Resident of Village & P.S.- Parbatta, District- Khagaria
9. Md. Esalam, Son of Late Gaffur Khan, Resident of Village- Rupauhali, P.S.- Parbatta, District -Khagaria.
10. Pritam sah, Son of Late Rohim Sah, Resident of Village- Nauranga, P.S.- Parbatta, District- Khagaria.
11. Harichandra Sah, Son of Late Rajo Sah , Resident of Village- Nauranga P.S.- Parbatta, District- Khagaria
12. Waso Sah, Son of Late Rohin Sah, Resident of Village-Nauranga, P.S. Parbatta, District- Khagaria
13. Ramsharya Chaudhary, Son of Late Upendra Choudhary, Resident of Village- Kanhaiyachak, P.S.- Parbatta, District- Khagaria
14. Shambhu Yadav, Son of Bhailal Yadav, Resident of Village- Kanhaiyachak, P.S.- Parbatta, District- Khagaria
15. Pappu Chaudhary, Son of Jagdeo Chaudhary, Resident of Village- Kanhaiya Chak, P.S.- Parbatta, District- Khagaria.
16. Harichandra Sah, Son of Late Rohim sah, Resident of village Nauranga P.S.- Parbatta District- Khagaria
17. Bhushan Thakur, Resident of Village Nawatolia (Kolwara), P.S.- Parbatta, District- Khagaria.
18. Md. Ebrahim, son of Late Ala Uddin Khan, resident of village Rupauhli, P.S. Parbatta, District-Khagaria
19. Md. Ailun Khan, Son of Late tenikhan resident of village Rupauhli, P.S.- Parbatta, District Khagaria
20. Basudeo @ Baso Sah, Son of Late Baldeo Sah, Resident of Village- Rupauhli, P.S. Parbatta, District-Khagaria
21. Balmukund Bhagat @ Chunni Bhagat, Son of Late Bindeshwari Bhagat Resident of Village- Rupauhli P.S.- Parbatta, District Khagaria
22. Udho Sah, Son of Late Rohin Sah, Resident of Village- Nauranga P.S.- Parbatta, District- Khagaria.

... .. Respondents



Appearance :

For the Petitioner/s : Mr. Anil Kumar Choudhary
For the Respondent/s : Mr. ASHOK KUMAR- SC11

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 18-09-2017 Heard Mr. Anil Kumar Choudhary, learned counsel for the petitioners and Mr. Vijay Kumar Sinha, learned AC to SC-18 for the respondent-State.

Since, the present writ application was registered on 19.05.2015, but till date, no counter affidavit has been filed. Hence, this Court is not inclined to adjourn the matter any further.

The nature of order this Court intends to pass, does not require issuance of notice to private respondent nos. 7 to 22.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the land in question, which is encroached by private respondent nos. 7 to 22. The relief as claimed by the petitioners has been incorporated in paragraph no.1 of the petition which reads as follows:-

- “1 (I) To issue appropriate writ/writs mandamus in nature the Respondent authorities to removed the encroachment on connecting road Encroach by Private Respondent no. 7 to 22.
(II) Further to issue to Direct the Respondent authorities to take necessary step/action against the Private respondent no.7 to 22.
(III) To any other relief/reliefs for which petitioner is



entitled for.”

It is submitted by learned counsel for the petitioners that due to heavy flood in the year 1977, 4.62 acres of land appertaining to Thana No. 374/1, Plot Nos. 128,126 and 91, situated in Mauza Parbattha English, District Khagaria, was acquired and subsequently, a notification under official gazette for re-habitation of flood displaced persons of Village Rupauhali. Consequently, the petitioners and others were settled.

Though, in paragraph no.4 of the writ application, a statement has been made that the land appertaining to Plot nos. 128, 126 and 91 are encroached plots, but contrary to that, in paragraph no. 12 of the writ application, it is stated that for removal of encroachment from the road in question, Encroachment Case Nos. 03 of 2002-03 and 01 of 2010-11 have been initiated and notices have been issued. Paragraph no.12 reads as follows:-

“That petitioners moved before Circle Officer, Parbatta, District Khagaria for removal of the encroachment made by Private respondents no.7 to 22 upon which encroachment case No.3/2002-03 and 1/10-11 has been initiated and notices to the opposite party have been issued but final decision has not been taken by the Circle Officer, parbatta Khagaria in aforesaid Encroachment case and some are still pending.”

It is submitted by the learned counsel for the petitioners



that at present, he confines his prayer only for conclusion of the encroachment proceeding.

Learned AC to SC-18 submits that at present, he is not having any instruction whether encroachment proceedings have been concluded or not.

Considering the confined prayer of learned counsel for the petitioners, it is expected from respondent no.6, the Circle Officer, Parbatta, to take the proceeding of Encroachment Case Nos. 03 of 2002-03 and 01 of 2010-11 to its logical conclusion within a period of three months, if the same have already not been concluded as yet, after giving due opportunity of hearing to all affected persons, in accordance with the provisions of the Bihar Public Land Encroachment Act.

It is made clear that this Court has not expressed any opinion with regard to question of allotment or settlement of the land in question.

Accordingly, with the above observation and direction, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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