

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2140 of 2017

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1. Arjun Kumar, Son of Viran Sao,
2. Anuj Sao, Son of Jeeva Sao,
3. Rakesh Kumar, Son of Late Bindeshwar Prasad,
4. Sitaram Sao, Son of Jeevan Sao,
5. Sitaram Prasad Yadav, Son of Sidheshwar Sao,
6. Bhagwan Sao, Son of Dasai Sao,
7. Baleshwar Sharma, Son of Krishna Vishwakarma @ Krishna Lohar,
8. Yadunandan Prasad Singh, Son of Fagu Mahto,
9. Sitaram Prasad Son of Ramdhari Gope.
All Resident of Village/ Mohalla- Moula Nagar, P.S.- Atari, Anchal- Atari,
District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Gaya, District- Gaya.
2. Land Reform Deputy Collector, Sadar Gaya, District- Gaya.
3. Sub-Divisional Officer, Gaya Sadar, District- Gaya.
4. Circle Officer, Anchal- Atari, Block- Atari, District- Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Sinha
For the State : Mr. Asif Kalim, A.C. to A.A.G. 12

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 17-02-2017

Heard parties.

Petitioners are aggrieved by the notice contained in
Annexure 1 series by which they have been directed to appear and
submit their respective explanations with respect to the land described
in the notice.

From perusal of the notice, it appears that it has
merely been issued under Section 3 of the Bihar Public Land



Encroachment Act, 1956 and, as such, this writ application appears to be premature.

However, it is contended on behalf of the petitioners that without taking a final decision, they are orally being threatened by the Circle Officer for removal of the encroachment.

In my view, such action cannot be taken by the Circle Officer. He will have to grant reasonable opportunity to all the petitioners and also would have to grant them reasonable opportunity under Section 5 of the aforesaid Act which lays down that on the date specified in the notice served under Section 3, the matter would be heard by the Collector. It means that encroachers would also be granted opportunity of hearing and unless such procedure is followed and final order is passed under Section 6 of the aforesaid Act and notice under Form II is issued by the Circle Officer, no action of removal of encroachment can be taken by him.

Accordingly, this writ application stands disposed of with a direction to the petitioners to appear before the Circle Officer along with a copy of this order, who will fix a date of hearing and after hearing, he would pass final order.

However, if such final order has already been passed then petitioners would be required to challenge the same before a competent forum.



This is further made clear that no action should be taken for 30 days from today for removal of encroachment even if final order has been passed by the authority as during such period, petitioners would be at liberty to file statutory appeal.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.02.2017
Transmission Date	NA

