

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6378 of 2017

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1. Uma Shankar Singh, son of Sri Bhagwan Singh
 2. Brajesh Kumar, son of Late Ramashankar Singh
- Both 1 & 2 resident of Village-Deokharia, P.S.-Kochas, District-Rohtas

.... Petitioner/s

Versus

1. The Principal Secretary, Revenue Department, Govt. of Bihar
2. The District Magistrate, Rohtas, Bihar
3. The Deputy Collector Land Reforms, Rohtas, Bihar
4. The Sub-Divisional Officer, Kargahar, Rohtas
5. The Circle Officer, Kargahar, Rohtas

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Waliur Rahman

For the Respondent/s : Mr. Subhash Chandra Yadav- Gp15

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 05-05-2017

The present writ application has been filed for a direction to the respondent authorities to accept the petitioners' reply to the show cause notice issued under the signature of the Circle Officer, Kargahar, Rohtas, in Encroachment Case No. 26 of 2016-17 and in the meantime, not to displace the petitioners from the land in question appertaining to Thana No. 262, Khata No. 153, Plot No. 781, measuring an area of 0.15 ½ decimal out of total area of 1.59 decimal, situated in Mauza Deokharia, where they are residing since 1952.

The petitioners claim the land in question by virtue of settlement made by ex-landlord in favour of the ancestors of the petitioners. Further case of the petitioners is that in 1989,



the petitioners came to know that in the revenue survey entry, the land in question has been recorded in the name of Government of Bihar. Hence, a petition was filed under Section 10(4) of the Act before the Consolidation Officer, Kargahar, who directed for entering the name of the petitioners in survey entry in place of Government of Bihar, vide order dated 08.11.1989, passed in Case No. 9/325 of 1989-90.

Notice dated 06.03.2017 as contained in Annexure-3 series was issued under the signature of Circle Officer, Kargahar, respondent No. 5 in Encroachment Case No. 26 of 2016-17, whereby, both the petitioners were show caused for encroaching public land appertaining to Thana No. 262, Khata No. 153, Plot Nos. 781 and 159 measuring an area of 7.74 decimals, situated in Mauza Deokharia and the petitioners were asked to reply as to why action may not be taken under Sub-section 2 of Section 6 of the Public Land Encroachment Act (hereinafter referred to as the 'Act') which incurs fine of Rs. 20,000/- and imprisonment for one year. The petitioners were also directed to appear in Kargahar Police Station premises on 18.03.2017 at 12:00 P.M.

It is submitted by learned counsel for the petitioners that show cause notice has mechanically been issued as



there is nothing on record to suggest that any notice under Section 3 of the Act has been issued to the petitioners or the provision under Sections 4 and 5 of the Act has been followed or any final order has been passed under Sections 6 (1) of the Bihar Public Land Encroachment (Amendment) Act, 2012. Moreover, the Circle Officer, Kargahar, respondent No. 5, directed the petitioners through the notice to appear in the premises of Kargahar Police Station which suggests the callous manner in which the Circle Officer is conducting quasi-judicial proceeding and above all, reply to show cause was refused to be received/accepted, hence, the petitioners transmitted the same through the registered post.

Learned A.C. to G.P.-15 submits that she does not have any instruction whether final order has been passed in the proceeding or not.

Learned counsel for the petitioners confines his prayer only to the extent of disposing of the reply transmitted through registered post in pursuance to the notice, dated 06.03.2017, contained in Annexure-3 series.

In the circumstances, the writ application is disposed of with liberty to the petitioners to submit their reply to the show cause notice, as contained in Annexure-3 series, within a



period of two weeks from the date of receipt/production of the copy of this order along with the respective documents in support of their claims, when it is expected from the Circle Officer, Kargahar, Rohtas, respondent No. 5 to accept the reply to the notice issued to the petitioners, if encroachment proceeding has already not been concluded. It is expected from respondent No. 5 to conclude the Encroachment Case No. 26 of 2016-17, if not concluded as yet after giving due opportunity of being heard to all affected persons, including the petitioners in accordance with the provisions of the Act.

If the proceeding has yet not been concluded, it is expected from the respondent authorities, particularly, respondent No. 5 to maintain the status quo as is existing today with regard to land appertaining to Thana No. 262, Khata No. 153, Plot No. 781 of an area of 0.15 ½ decimal out of total area of 1.59 decimal situated in Mauza Deokharia.

Accordingly the writ application is disposed of.

(Dinesh Kumar Singh, J)

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