

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15033 of 2017

1. Ram Krit Das, Son of Naresh Das.
2. Nageshwar Das, Son of Late Amrit Das.
3. Tunu Das, Son of Late Balak Das.
4. Chhedi Das, Son of Late Udit Das.
5. Vinshudeo Das, Son of Late Udit Das.
6. Ram Pravesh Das, Son of Late Mosafir Das.
7. Sukhari Das, son of Late Dasain Das.
8. Mangal Das, Son of Late Dasain Das.
9. Doman Das @ Yadu Das, Son of Late Chhatan Das.
10. Suryadeo Das, Son of Late Balkeshwar Das.
11. Vinod Das, Son of Late Rajendra Das.
12. Mahanth Das, Son of Late Ram Lakhan Das.
13. Jagdeo Das, Son of Late Balkeshwar Das.
14. Chandil Das, Son of Late Tulsi Das.

... .. Petitioners

Versus

1. The State Of Bihar through the Principal Secretary, Department of Revenue & Land Reforms, Government of Bihar, Patna.
2. The Collector, Aurangabad.
3. The Sub-Divisional Officer, Aurangabad.
4. The Deputy Collector, Land Reforms, Aurangabad.
5. The Circle Officer, Rafiganj, District - Aurangabad.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Adv.
For the Respondent/s : Mr. Sajid Salim Khan, SC-25

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 17-10-2017 Heard Mr. Manoj Kumar, learned counsel for the petitioners and Mr. Sajid Salim Khan, learned SC-25 for the respondent-State.

The petitioners are aggrieved by the notice dated 24.08.2017, issued under the signature of respondent no.5, the Circle Officer, Rafiganj, in Encroachment Case No. 13 of 2012-13, under Section 6(2) in Form-II of the Bihar Public Land



Encroachment Act (hereinafter referred to as 'the Act'), as contained in Annexure- 2(series), whereby the petitioners have been directed to remove the encroachment from the land appertaining to Thana No. 738, Khata No. 65, Plot Nos. 205, 206 and 207, situated in Village Chiraila, Circle Rafiganj, District Aurangabad.

It is submitted by learned counsel for the petitioner that the final order dated 30.06.2014 was passed in Encroachment Case No. 13 of 2012-13, by respondent no.5, the Circle Officer, Rafiganj, against which the appeal being Encroachment Appeal No. 75 of 2014 was preferred by the petitioners before the Collector. However, the Collector, while hearing the appeal, vide order dated 09.09.2014, directed respondent no.5, the Circle Officer, Rafiganj to pass specific order and consequently, the present notice has been issued.

It is submitted by learned counsel for the petitioners that on the land in question, the petitioners' residential houses are situated.

It is submitted by Mr. Sajid Salim Khan, learned SC-25 that neither the final order passed in Encroachment Case No. 13 of 2012-13, nor the order dated 14.01.2013, passed in CWJC No. 688 of 2013 has been brought on record, in pursuance to



which the encroachment proceeding was initiated. In reply to the same, learned counsel for the petitioner submits that the petitioners were not party in the earlier writ proceeding.

It is further submitted by learned SC-25 that the petitioners ought to have prayed for stay of the proceeding before the appellate authority as provided under Section 14 of the Act.

This Court finds substance in the submission of the learned SC-25. However, keeping in view the fact that the final order was passed on 30.06.2014 and the appeal was preferred in the year 2014, whereas the notice under Section 6(2) in Form-II of the Act has been issued in the year 2017, the present writ application is disposed of with liberty to the petitioners to file an application for stay of the proceeding before the appellate authority within a period of 2 weeks from the date of receipt/production of a copy of this order.

It is expected from respondent no.5, the Circle Officer, Rafiganj to maintain status quo for a period of two weeks from the date of receipt/production of a copy of this order.

(Dinesh Kumar Singh, J)

Amrendra/-

U			
---	--	--	--

