

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5090 of 2014

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1. Md. Ashiqye Ansari, Son of Late Nasruddin Ansari, Secretary, Urdu Muktab Mohammadpur (Madarsa)
2. Sabir Ansari, Son of Late Abid Ansari
3. Sayeeda Khatoon, Wife of Late Hakim Mian
4. Abdul Hafeez, Son of Kailu Mian
5. Azhar Ansari, Son of Muslim Ansari
6. Most. Amina, D/O Late Yaseen Mian
7. Most. Zanesha Khatoon, Wife of Late Indaz Mian All Resident of Village - Majhur Tola, Mohammadpur, P.S. Manpur, District - Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar Through The Secretary, Land Reform Department, Govt. Of Bihar, Patna
2. The District Magistrate, Sitamarhi
3. The Additional District Magistrate, Sitamarhi
4. The Sub Divisional Officer, Pupri, District - Sitamarhi
5. The Anchal Adhikari, Anchal Pupri, District - Sitamarhi
6. The Consolidation Officer, Nanpur, District - Sitamarhi

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ansul Rahman, Advocate

For the Respondent/s : Mr. Sanjay Prasad, AC to AAG 4

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 25-08-2017

Heard learned counsels for the parties.

The present writ application has been filed for quashing the notice dated 26.2.2014, issued under the signature of respondent no. 5, Circle Officer, Pupri, Sitamarhi in Encroachment Case No. 2 of 2013-14, whereby 11 persons including the seven petitioners herein, were noticed under section 3 of Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as the 'Act') to produce the evidence in



support of their claim over the land appertaining to Khata No. 2094, Plot No. 8777, situated in village – Majhaur in the District of Sitamarhi, failing which, it has been directed that encroachment will be removed under the provisions of the Act and the cost of removal of encroachment will be realized from the petitioners.

It is submitted by learned counsel for the petitioners that the land in question is the ancestral land of the petitioners and the petitioners are residing on the land in question since long and now they have constructed their houses under the Indira Awas scheme. The encroachment proceeding has been initiated in pursuance to the direction issued in C.W.J.C. No. 22957 of 2012 but the petitioners were not noticed in the said proceeding.

Learned AC to AAG 4, relying on the counter affidavit, submits that the Encroachment Case No. 2 of 2013-14 has been initiated in pursuance to the order dated 14.12.2012 passed in C.W.J.C. No. 22957 of 2012.

Having heard learned counsels for the parties, it appears that one Dharmdeo Mahto came before this Court in C.W.J.C. No. 22957 of 2012 with a prayer for issuance of a direction to the respondents for removal of encroachment from



the same land in question, i.e., Khata No. 2094, Plot No. 8777 situated in village – Majhaur in the District of Sitamarhi. A bench of this Court disposed of the Writ application in the following terms:

“Let the Circle Officer Nanpur initiate proceeding for removal of encroachment under Public Land Encroachment Act, 1956, seeking a report from the Circle Amin and identify the encroachers and after issuing notice and hearing the encroachers pass appropriate order in the matter within reasonable time from the date of receipt/production o a copy of this order before him. In the event encroachment is found the circle officer shall ensure removal thereof within the same time.”

Consequently, Encroachment Case No. 2 of 2013-14 was initiated. The counter affidavit does not reflect any reason for its not being concluded till date in spite of direction of this court. So far as the prayer of the petitioners to quash notice, as contained in Annexure 5, is concerned, since such Notice has lost its force, as the petitioners were to submit documentary proof with regard to their respective claim by 26.2.2014, this Court is not inclined to quash the same. However, it is expected from the respondent no. 5, Circle



Officer, Pupri to conclude the proceeding of Encroachment Case No. 2 of 2013-14 within a period of three weeks if it has already not been concluded, after giving due opportunity of hearing to all affected persons including the petitioners in accordance with the provisions of the Act.

This writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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