

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.2620 of 2017**

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1. Sudhir Kumar Mishra @ Gopal Mishra, S/o Shri Dashrath Mishra,  
2. Ramnath Mishra, S/o Late Krishna Kant Mishra,  
3. Krit Kumar Mishra @ Mangal Mishra, S/o Late Kamla Kant Mishra,  
4. Surendra Mishra, S/o Late Sia Kant Mishra,  
5. Rishikesh Mishra @ Banti Mishra, S/o Late Akhilesh Mishra, All resident of  
village - Shokhara under Sub Division - Teghra, P.S. Fulwariya, District -  
Begusarai

.... .... Petitioner/s

Versus

1. The State of Bihar through the Collector, Begusarai, District Begusarai  
2. The Collector, Begusarai  
3. The Sub Divisional officer, Teghra, District Begusarai  
4. The Circle Officer, Teghra, P.S. Teghra, District - Begusarai  
5. Circle Inspector, Teghra, P.S. Teghra, District - Begusarai

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Subodh Kumar Jha, Advocate  
For the Respondent/s : Mr. SAJID SALIM KHAN- SC25

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**

**ORAL JUDGMENT**

**Date: 03-03-2017**

Heard learned counsel for the petitioners and learned

A.A.G-25.

The present writ application has been filed with a prayer for quashing the order dated 08.02.2017 passed by respondent no. 4 Circle Officer, Teghra in Encroachment Case No.02 of 2016-17 as well as the communication dated 9.2.2017 in Form-2 as contained in Annexure 9 series whereby notices have been directed to be issued to the petitioners under Section-6(2) of the Bihar Public Land Encroachment Act, 1956 for removal of the



structure over Plot No. 3209 area 15 dhoor of village Shokahara, P.S. Fulwariya in the district of Begusarai within ten days (with additional prayer for stay of operation of impugned order during pendency of the writ application).

It is submitted by learned counsel for the petitioners that the land in question is a raiyati land on which his residential house is situated and reliance has been placed on the judgment reported in AIR 1982 Supreme Court 1081 and 2000(1) PLJR 209. Learned counsel does not dispute the fact that the order impugned is appealable under Section 11 of the Bihar Public Land Encroachment Act, 1956 but it has not been preferred.

Learned counsel for the respondent-State submits that the materials on record do not suggest that the land in question is raiyati land of the petitioner.

In the circumstance, this writ application is disposed of with liberty to the petitioners to prefer appeal before the District Magistrate, Begusarai within a period of fifteen days. It is expected that the appeal will be registered within 24 hours of its presentation. The operation of the order dated 08.02.2017 passed by Circle Officer, Teghra in Encroachment Case No.02 of 2016-17 and all consequential orders are stayed for a period of four weeks. In the meantime, the petitioners will prefer a stay application when the



District Magistrate, Begusarai will consider and decide the question of stay within the said period of four weeks and will try to dispose of the appeal after hearing all affected parties and on examination of records in accordance with provision of the Bihar Public Land Encroachment Act, 1956 within a period of three months.

Accordingly, the writ application is disposed of.

**(Dinesh Kumar Singh, J)**

Anil/-

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