

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14232 of 2013

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1. Indradeo Singh Son of Late Daroga Singh Resident of Village- Mahua, P.S.- Baheri, District- Darbhanga

2. Chandra Mauleshwar Prasad Mishra @ Lalan Mishra Son of Late Mithilesh Prasad Mishra Resident of Village- Mahua, P.S.- Baheri, District- Darbhanga

.... Petitioner/s

Versus

1. The State of Bihar

2. Collector of District, Darbhanga

3. Anchaladhikari, Baheri, District- Darbhanga

4. Faguni Paswan Son of Shital Paswan Resident of Village- Kalyanpur, P.S.- Baheri, District- Darbhanga

5. Nand Lal Paswan Son of Late Fakir Paswan Resident of Village- Kalyanpur, P.S.- Baheri, District- Darbhanga

6. Gulden Paswan Son of Sogarath Paswan Resident of Village- Kalyanpur, P.S.- Baheri, District- Darbhanga

7. Dhanik Lal Paswan Son of Sogarath Paswan Resident of Village- Kalyanpur, P.S.- Baheri, District- Darbhanga

8. Raj Kumar Paswan Son of Sogarath Paswan Resident of Village- Kalyanpur, P.S.- Baheri, District- Darbhanga

9. Shivaji Paswan Son of Sogarath Paswan Resident of Village- Kalyanpur, P.S.- Baheri, District- Darbhanga

10. Ramdeo Paswan Son of Late Baldeo Paswan Resident of Village- Kalyanpur, P.S.- Baheri, District- Darbhanga

11. Sushil Paswan Son of Subodh Paswan Resident of Village- Kalyanpur, P.S.- Baheri, District- Darbhanga

12. Vijay Singh Son of Late Ganga Singh Resident of Village- Mahua, P.S.- Baheri, District- Darbhanga

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bishwanath Prasad Singh

For the Respondent/s : Mr. Kundan Bhadur Singh

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 27-04-2017 Heard learned counsel for the petitioners and

A.C. to G.P. 10 for the respondent-state.

The present application has been filed for



issuance of a direction to implement and execute the order dated 6.3.2010, passed by the Circle Officer, Baheri and the Administrative order dated 28.12.2012 passed in Encroachment Case No. 5 of 2009-2010 whereby respondent nos. 4 to 11 were directed to remove encroachment from the land appertaining to Thana No. 36 Khata no. 67 Plot No. 112 and Khata No. 91 Plot No. 113 situated at Mauza Kalyanpur in the District of Darbhanga.

It appears that notices in Form-2 under section 6(2) of Bihar Public Land Encroachment Act (hereinafter referred to as the 'Act') were issued to the encroachers on 6.3.2010, but it is claimed that till date the order has not been executed. Statement has been made in paragraph 12 of the writ petition that encroachers have not challenged the order dated 6.3.2010, as contained in Annexure 1, before any court of competent jurisdiction.

This Court is dismayed to find that the writ jurisdiction is being invoked, for implementation of the order passed by the Circle Officer. For implementation of the order passed under section 6 (1) of the Act there is specific provision under section 6(2) and section 7 of the Act which reads as



follows:

“6. Final order of the Collector-

(1).....

(2) If any person does not comply with the orders passed by the Collector under this section, he shall be punishable with imprisonment for a term which may extend to one year or with fine up to Rs.2,0000 or with both.

7. Power of the Collector to get encroachment removed and recover cost of the removal.- If any person fails to comply with the orders passed by the Collector under section 6 directing the removal of any encroachment by the date fixed, the Collector shall cause the encroachment to be removed in such manner as he deems fit and the cost of such removal shall be recovered from such person.”

It is expected from the respondent no. 2 the Collector, Darbhanga to examine, whether the order dated 6.3.2010 passed in Encroachment Case No. 5 of 2009-2010 has been executed/implemented or not, and implement the same, if it has not been implemented till date, provided the same has not been annulled or stayed by any court. Needless to say that the process of implementation of the order may be done only after



giving due opportunity of hearing to all affected persons in accordance with the provisions of the Act within a period of three months.

This writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

Anil/-

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