

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12586 of 2017

- =====
1. Jagdish Prasad Son of Late Banarsi Prasad
 2. Binod Kumar
 3. Pramod Kumar Both Sons of Jagdish Prasad, All Resident of Village-Belawn, P.S.-Belawn, District-Kaimur

.... Petitioner/s

Versus

1. The State of Bihar, through Collector, Kaimur
2. The Collector, Kaimur
3. Anchal Adhikari, Rampur District-Kaimur.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Mritunjay Prasad Singh, Advocate
For the Respondent/s : Mr. S. C. Yadav, GP-15
Mr. Rakesh Srivastava, AC to GP-15

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 07-12-2017

Heard Mr. Mritunjay Prasad Singh, learned counsel for the petitioners and Mr. Rakesh Srivastava, learned AC to GP-15.

The petitioners are aggrieved by the Notice dated 01.08.2017 issued under the signature of Circle Officer, Rampur, District – Kaimur in Encroachment Case No. 03 of 2012-13, as contained in Annexure-1, whereby petitioners have been directed to remove encroachment from the land appertaining to Thana No. 737, Khata No. 234, Plot No. 1017 by 16.08.2017, failing which the same will be forcibly removed on 20.08.2017 and the cost will be realized from the petitioners.



It is submitted by learned counsel for the petitioner that though the notice is purported to have been issued under Section 6(2) in Form II of the Bihar Public Land Encroachment Act (hereinafter referred to as the 'Act'), but there is nothing on record to suggest that any final order under Section 6(1) of the Act has been passed. The only prayer of the petitioners while filing show cause before the Circle Officer was that after doing scientific measurement of the land in question the proceeding should be initiated and if it is found that any encroachment has been made, they will readily remove the encroachment.

Mr. Rakesh Srivastava, learned AC to GP-15 submits that, prima facie, it appears that the petitioners have encroached upon the land in question.

It appears that the notice, as contained in Annexure-1, though, appears to have been issued under Section 6(2) of the Act but it is not in Form II as prescribed under the Act.

In the circumstances, the notice, as contained in Annexure-1, issued under the signature of Circle Officer, Rampur, District – Kaimur in Encroachment Case No. 03 of 2012-13 is, hereby quashed.

It is expected from Circle Officer, Rampur to



conclude the proceeding of Encroachment Case No. 03 of 2012-13 within three months, after adhering to the provisions stipulated under the Act, by issuing notice under Section 3 in Form I of the Act and after giving opportunity of hearing to all the affected persons under Sections 4 and 5 of the Act and passing final order under Section 6(1) of the Act.

It is needless to say that it will be appropriate to have a scientific measurement of the land in question, before passing final order, after giving due notice to all affected persons .

Accordingly, this Writ application is disposed of.

(Dinesh Kumar Singh, J)

DKS/-

U			
---	--	--	--

