

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.681 of 2018

In
Civil Writ Jurisdiction Case No.19824 of 2014

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1. Chandra Shekhar Singh Alias Chandra Shekhar Kumar
 2. Raju Singh, Both sons of Late Biashwanath Singh, resident of Mohalla Ambedkar Nagar Bara Paraua, Ward No. 1, Raxaul, Police Station – Raxaul, District – East Champaran
 3. Chandeshwar Baitha, son of Ramfal Baitha, posted as Tax Collector, Nagar Parishad, Raxaul, District – East Champaran

... .. Appellant/s

Versus

1. The State Of Bihar
2. The District Magistrate, East Champaran a Motihari
3. The Sub Divisional Officer, Raxaul, District East Champaran
4. The Deputy Collector Land Reforms, Raxaul, District East Champaran
5. The Circle Officer, Raxaul, District East Champaran
6. The Executive Officer, Raxaul Nagar Parishad, District East Champaran

... .. Respondent/s

7. Geeta Devi, wife of Prabhu Sah, resident of Mohalla Ambedkar Nagar bara Paraua, Ward No. 1, Raxaul, Police Station – Raxaul, District – East Champaran

... .. Respondents / Writ petitioner

Appearance :

For the Appellant/s	:	Mr. Sanjay Singh, Advocate
For the Respondent/s 1to5	:	Mrs. Nutan Sahay – AC to AAG 12
For the Respondent no 6	:	Mr. Devi Das Srivastava, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 19-07-2018 Delay of 220 days in filing of the appeal is condoned
and I.A. No. 3865 of 2018 stands allowed and disposed of.

Having heard learned counsel for the parties, we find
that the learned Writ Court has only remanded the matter to the
Circle Officer, respondent No. 5, to proceed for removal of the



encroachment, if any, in accordance to the provisions of Bihar Public Land Encroachment Act 1956.

Apprehension of the applicants that the Circle Officer has pre-determined the issue and is proceeding to remove the structures treating it to be an encroachment, is an apprehension which is not correct. We may, however, clarify that the Circle Officer shall proceed in the matter first determining the existing of encroachment and thereafter proceed to remove the encroachment, if any form. He shall not pre-determine the issue that there is encroachment without recording any finding with regard to there being encroachment. The Statutory Authorities are required to decide the existence of encroachment first, and thereafter proceed in accordance with law.

With the aforesaid, this appeal stands disposal.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

K.C.Jha/Uma/-

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