

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16419 of 2017

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1. Binod Mahto S/o Late Ram Dayal Mahto
 2. Dorik Mahto S/o Late Tunni Mahto
 3. Ram Pravesh Pandit S/o Late Baldeo Pandit All resident of Village-Simra Toli Hirai Harpur, P.S.- Pear, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Bihar, Patna.
2. The District Magistrate, Muzaffarpur.
3. The Circle Officer, Bandra, Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pradhan Murli Manohar Prasad, Adv
Mr. Pawan Kumar Singh, Advocate
For the Respondent/s : Mr. Rishi Raj Sinha, SC-19

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 09-01-2018

Heard Mr. Pradhan Murli Manohar Prasad,

learned counsel for the petitioners and Mr. Rishi Raj Sinha,
learned Standing Counsel 19.

The present Writ application has been filed for quashing the letter No. 26 (Muz.) dated 25.10.2017, as contained in Annexure-2, issued under the signature of Circle Officer, Bandra, Muzaffarpur, whereby and whereunder, six persons including the petitioners, whose names appear at Serial No. 1 to 3 to appear on 08.11.2017 and 09.11.2017 in order to submit their defence as in what circumstances they have encroached upon the land appertaining to Thana No. 877, Khata No. 1115, Plot No.



2595 situated in village – Simra, P.S. – Pear, District – Muzaffarpur.

It is submitted by learned counsel for the petitioners that it appears that without initiating any proceeding the present notice has been issued. The notice does not bear any encroachment case number, hence, it does not appear that the proceeding has been initiated.

Mr. Rish Raj Sinha, learned Standing Counsel 19 submits that it was simply a notice allowing the petitioners and others to submit their defence under Section 4 of the Bihar Public Land Encroachment Act (hereinafter referred to as the ‘Act’) and hence, it does not need any interference.

Considering the rival submissions of the parties, no doubt for removal of the encroachment a proceeding ought to have been initiated under Section 3 of the Act, while the notice does not suggest that any proceeding has been initiated, as it does not bear any encroachment case number, but in view of the fact that the notice dated 25.10.2017 has lost its force, this Court is not inclined to interfere. Accordingly, this application is disposed of with a direction to respondent no. 3, Circle Officer, Bandra that if it appears to him that the public land has been encroached upon then he will initiate a proceeding under the Act, if it has already



not been initiated, after giving due opportunity of hearing to all affected persons including the petitioners and the other persons, whose names appear in the notice, as contained in Annexure-2 and take such proceeding to its logical conclusion within a period of four months under the provisions of the Act.

(Dinesh Kumar Singh, J)

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