

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18385 of 2018

1. Ram Bilash Sharma Son of Late Nathuni Sharma.
2. Ramadhar Sharma Son of Late Nathuni Sharma
All Resident of Village-Selarpur, PO-Naowan, P.S.-Shakurabad,
Distirct-Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Land and Revenue reforms, Bihar, Patna.
2. The District Magistrate, Jehanabad.
3. The Superintendent of Police, Jehanabad.
4. The Sub Divisional Officer, Jehanabad.
5. The Circle Officer, Ratni Faridpur, District-Jehanabad,
6. Surendra Sharma Son of Late Ram Janam Sharma, resident of Village-Selarpur, PO-Naowan, P.S.-Shakurabad, Distirct-Jehanabad.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Arun Kumar, Advocate Mr. Shambhu Sharan Kumar, Advocate
For the State	:	Mr. Sajid Salim Khan, SC-25
For Respondent No. 6	:	Mr. Kamla Pd. Rai, Advocate Mr. Shankar Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 11-10-2018

Heard Mr. Arun Kumar counsel for the petitioner, Mr. Sajid Salim Khan, SC-25 for the State and Mr. Kamla Prasad Rai appearing for the private respondent.

2. This writ petition questions the order passed by the statutory authorities under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act'). It is on the complaint made by the private respondent under Section 3 of 'the Act' that an encroachment case bearing No. 03/2015-16 was



initiated in which the encroachment has been upheld, as is manifest from Annexure-2/A. The petitioners questioned the notice of removal of encroachment in this Court in CWJC No. 2003 of 2018 as their appeal was pending consideration and the writ petition was disposed of with a direction to the Appellate Authority i.e. the Collector, Jehanabad to dispose of the appeal in accordance with law. A copy of the order of the High Court is enclosed as Annexure-6. It is thereafter that the appeal of the petitioners bearing No. 09/D.M./2018 was heard and dismissed on 07.06.2018 vide Annexure-7 and the petitioners are back to this Court.

3. Mr. Arun Kumar, learned counsel for the petitioners while challenging the case of the petitioners has invited the attention of this Court to the recorded entries at Annexure-9 to submit that even though the land is classified as 'Anabad Sarva Sadharan', the existence of the house is noted and which according to Mr. Arun Kumar is existing on the plot of land since around the year 1960.

4. Mr. Arun Kumar, counsel for the petitioners while not disputing the nature of the land submits that a continued occupation of the land in question by the petitioners for more than half a century coupled with the fact that the petitioners are not an isolate example, the authorities should have considered this aspect of the matter.

5. The argument has been contested by Mr. Khan, learned Standing Counsel No. 25 as well as Mr. Rai appearing for the



complainant in the encroachment proceedings to submit that the continued occupation of the petitioners on the public land will not give the petitioners any title to the same and cannot vest him with any right to occupy the same. As regarding the issue of discrimination it is submitted that no such plea was taken at any stage before the statutory authorities.

6. We have heard the learned counsel for the parties and we have perused the records. In the admitted facts noted where there is no dispute as regarding the nature of land being ‘public’ and there is nothing to establish any right of the petitioners to occupy the same, by itself would classify the petitioners as encroachers thereupon. The complaint so made cannot be granted indulgence to, as no infirmity can be found in the orders impugned.

7. The writ petition is dismissed.

(Jyoti Saran, J)

(Nilu Agrawal, J)

Rajesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.10.2018
Transmission Date	NA

