

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16544 of 2017

1. Ram Lakhan Sah,
2. Jagdish Sah,
3. Harendra Sah,
4. Muhnnilal Sah,
5. Saheb Sah, All are Sons of Late Chhathu Sah, Resident of Village- Ojha Mathiya, Police Station- Majhauriya, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue Department, Government of Bihar, Patna.
2. The District Magistrate, West Champaran at Bettiah.
3. Teh Sub Divisional Magistrate, Sadar Bettiah, District- West Champaran.
4. The Circle Officer, Majhauriya Circle, West Champaran.
5. The Circle Inspector, Majhauriya Circle, District- West Champaran. null null
6. The Revenue Karamchari of Village Ojha Mathiya, Circle Majhauriya, Police Station- Majhauriya, District- West Champaran.
7. The Officer in Charge, Majhauriya Police Station, District- West Champaran.
8. Surendra Thakur, Son of Gopal Thakur, Resident of Village- Ojha Mathiya, Police Station- Majhauriya, District- West Champaran.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar No.-7
For the Respondent/s : Mr. Subhash Chandra Yadav -Gp15

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 04-07-2018

Heard Mr. Sanjay Kumar No.7, learned counsel for the petitioners and Mrs. Sangh Mitra Ghosh, learned AC to GP-15 for the respondent-State.

Though, the present writ application was registered on 14.11.2017, but till date no counter affidavit has been filed. Hence in view of the nature of order this Court intends to pass, this Court



is neither inclined to adjourn the matter any further, nor is inclined to issue notice to private Respondent No. 8.

The present writ application has been filed for quashing the notice dated 25.10.2017, issued under the signature of Respondent No.4, the Circle Officer, Majhauriya, in Encroachment Case No. 03 of 2016-17, as contained in Annexure-3, whereby the petitioners have been directed to remove the encroachment from the land, appertaining to Khata No. 140, Plot No. 347/1, situated in Village Ojha Mathiya, Circle and P.S.-Majhauriya in the District of West Champaran, which is recorded in the Khatian as 'Gairmajarua Aam land', which is used as a public road. The notice stipulates that in case of non-removal of encroachment, the same would be removed by deployment of force.

It is submitted by learned counsel for the petitioners that earlier, Respondent No.8, Surendra Thakur had preferred C.W.J.C. No. 7005 of 2016 for a direction to the respondent authorities to get the encroachment removed from the land in question, wherein counter affidavit was filed by the Circle Officer, Majhauriya stipulating therein that a proceeding under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') being Encroachment Case No. 03 of 2016-17, has already been initiated and notices have been issued to the private respondents.



In paragraph no.5 of the counter affidavit, stand was taken that steps will be taken for removal of the encroachment from the land in question.

It is further submitted by learned counsel for the petitioners that no proper opportunity was given to them and till date, the hutments have not been removed from the land in question.

Keeping in view the fact that this Court, vide order dated 15.09.2017, passed in C.W.J.C. No. 7005 of 2016, had given liberty to the Circle Officer, Manjhauliya to examine the issue and take the proceeding of Encroachment Case No. 03 of 2016-17 to its logical conclusion within a period of three months after giving due opportunity of hearing to affected persons in accordance with the provisions of the Act, this Court is not inclined interfere with the proceeding. However, if the hutments have not been removed from the land in question as yet, then an opportunity of putting defence may be given to the petitioners by the Circle Officer, Manjhauliya in the above mentioned proceeding.

The whole exercise should be done within a period of four weeks from the date of receipt/production of a copy of this order.



Till next four weeks, status quo with regard to the land in question, as is existing today, should be maintained.

Accordingly, with the above observations and directions, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

