

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21363 of 2014

1. Raj Kishore Prasad,
2. Viplav Kumar Verma, both sons of Late Parmeshwar Prasad Singh, both residents of Nalanda Colony, East Indira Nagar, Kankarbagh, P.S. Kankarbagh, Town & District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through The Chief Secretary, Bihar, Patna.
2. The Collector cum District Magistrate, Patna.
3. The D.C.L.R., Patna Sadar, Patna.
4. Circle Officer, Phulwari Sharif, Patna.
5. Indu Devi, wife of Late Tripurari Prasad, resident of Mohalla Ranighat, Mahendru, P.S. Sultanganj, District Patna, at present residing at Mohalla Tekari Road, Lane No. 6, Paschhimi Gali, Patthar ki Masjid, P.S. Sultanganj, District Patna.
6. The Nav Vikas Sahkari Griha Nirman Samiti Ltd., situated at Gyandham, Mohalla Lohaaniapur, District Patna through its Secretary.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Pankaj Maijorwar
For the Respondent/s : Mr. Sc12- Prabhat Kumar Singh

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT

Date : 14-09-2018

Heard Mr. Sandeep Sahi, the learned counsel appearing on behalf of the petitioners, Mr. Kamal Nayan Choubey, the learned senior counsel along with Mr. Ganpati Trivedi, the learned senior counsel appearing on behalf of respondent no.5, Mr. Ram Chandra Prasad Singh, the learned counsel appearing on behalf of respondent no.6 and Mr. Rishi Raj Sinha, the learned counsel for the respondents. no.1 to 4.

2. The petitioners have filed this writ petition against the demolition proceeding to demolish the residential house of the



petitioners of Khata No.84, Tauzi No.131, Plot No.1053 (part) situated in Village Jaganpura, District Patna.

3. Indu Devi filed land dispute redressal case under Land Dispute Redressal Act, 2009 being Land Dispute Case No.74 of 2012-13 against Basudeo Prasad Yadav and others. The DCLR, Patna Sadar, Patna ordered for removal of encroachment over the lands of Indu Devi after demarcations of her lands. In pursuance of the aforesaid order, the demolition proceeding was initiated and the house of the petitioners was subject matter of demolition.

4. Learned counsel for the petitioners submits that petitioners were not parties in Land Dispute Case No.74 of 2012-13. The petitioners have got no objection of demolition, if the house of the petitioners is situated on the land of Indu Devi but at least he should have been heard before demolition of the house. It is further submitted that the counter affidavit has been filed on behalf of respondents no.1 to 4 and the respondents have stated in paragraph-4 of the counter affidavit that the DCLR, Patna Sadar, Patna himself stayed his order for removal of encroachment on 18.11.2014 accepting the prayer of the affected persons who moved in appeal against the order of demolition within 30 days. It is further submitted that the petitioners have also filed suit. In view of the statement made by the State, the petitioners seek permission to withdraw this writ petition with an observation that if any demolition proceeding is



taken up, the petitioners at least should be heard first and the order be passed after hearing the petitioners.

5. Mr. Kamal Nayan Choubey, the learned senior counsel along with Mr. Ganpati Trivedi, the learned senior counsel appearing on behalf of respondent no.5 submitted that the petitioners concealed materials facts. The petitioners are settlee over two decimals of land by co-operative society. The petitioners have already filed suit, therefore, they have got no cause of action to file this writ petition.

6. Having considered the facts, I find that the petitioners got reasonable apprehension of demolition of their house in pursuance of the order dated 04.04.2013, passed in Land Dispute Case No.74 of 2012-13 but now the DCLR has already stayed his own order, therefore, the petitioners are permitted to withdraw this writ petition. Accordingly, the writ petition is dismissed as withdrawn with liberty that the petitioners appear before the appropriate authority and present their case.

(Prabhat Kumar Jha, J)

S.KUMAR/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.09.2018
Transmission Date	NA

