

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5445 of 2018

1. Md. Javed, Son of Md. Zahiruddin,
2. Mr. Shamimuddin, Son of Zahiruddin, Both (1) and (2) are Resident of Village- Pachhatii, P.S.- Bodh Gaya, District- Gaya.

... .. Petitioners

Versus

1. The State of Bihar through Principal Secretary, Revenue Department, Bihar, Patna.
2. The Collector, Gaya.
3. The Land Reforms Deputy Collector, Gaya.
4. The Circle Officer -cum- Anchal Adhikari, Body Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dharmendra Kumar Sinha
For the Respondent/s	:	Mr. Sajid Salim Khan- SC 25

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 02-08-2018

Learned counsel for the petitioners is permitted to make necessary correction in the petition.

Heard Mr. Dharmendra Kumar Sinha, learned counsel for the petitioners and Mr. Sajid Salim Khan, learned SC 25 for the respondent-State.

Though, the present writ application was registered on 23.03.2018, 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 not inclined to adjourn the matter any further.



The present writ application has been filed for a direction to Respondent No.2, the Collector, Gaya to dispose of Encroachment Appeal No. 11 of 2017, since Respondent No.4, the Circle Officer, Bodh Gaya is threatening to disposses the petitioners from the land, appertaining to C.S. Plot No. 2066, situated in Village Bodh-Gaya, District Gaya.

The petitioners claim that the land in question was settled in the name of their grand-father, Ahmad Mian @ Dukhi Mian, and thereafter, his name was entered in Zamindari Sirista and the petitioners have been paying rent regularly.

It is submitted by learned counsel for the petitioner that during revisional survey, R.S. Plot No. 3124, under R.S. Khata No. 812 has been carved out from Old C.S. Plot No. 2066, but in the R.S. Khatian, the land in question was recorded in the name of a Mahanth of Bodh-Gaya. For removal of the encroachment from the land in question, encroachment proceeding, being Encroachment Case No. 03 of 2017-18 was initiated, wherein Respondent No.4, the Circle Officer, Bodh Gaya, vide order dated 22.11.2017, passed under Section 6(1) of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act'), as contained in Annexure-1, directed the petitioner to remove the encroachment from the land in question. Against the said order, the



petitioners preferred appeal being Encroachment Appeal No. 11 of 2017 before Respondent No.2, the Collector, Gaya, but till date, it has not been disposed of. Since the petitioners are subjected to apprehend ejectment from the land in question, hence the present writ application.

Mr. Sajid Salim Khan, learned SC 25 submits that at present, he is not having any instruction whether Encroachment Appeal No. 11 of 2017 has been disposed of or not, but if the same has not been disposed of till date, then it will be disposed of within a time frame.

Considering the limited prayer of the petitioner, without expressing any opinion on the merits of the claim of the petitioners with regard to the land in question, it is expected from Respondent No.2, the Collector, Gaya to dispose of Encroachment Appeal No. 11 of 2017 within a period of six weeks from the date of receipt/production of a copy of this order.

In the meantime, the petitioners will be at liberty to prefer an application with a prayer for stay of the order of Respondent No.4, the Circle Officer, Bodh-Gaya, as contained in Annexure-1, when Respondent No.2, the Collector, Gaya may consider to stay the operation of the order of the Respondent No.2, the Circle Officer, Bodh Gaya.



With the above observation, the present writ application
is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/Deepak/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

