

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4883 of 2018

1. Ranjeet Singh

2. Rameshwar Singh

Both are sons of Bansi Singh and are resident of Village-Bada Lauwa,
P.O.-Lauwa Kala, P.S.-Baniyapur, District-Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Saran

2. The Collector, Saran

3. Sub-Divisional Officer, Sadar, Chhapra

4. The Circle Officer, Saran

5. Anchal Amin, Baniyapur, Saran

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Dineshwar Mishra, Adv.

For the Respondent/s : Mr. Sajid Salim Khan- SC-25

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date : 26-06-2018

Heard learned counsels for the petitioners and the respondents.

The present writ application has been filed for quashing of the Notice dated 05.02.2018, as contained in Annexure-3, issued under the signature of Respondent No.4, the Circle Officer, Saran, under Section 3 of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') in



Encroachment Case No.19 of 2017-18, whereby, the petitioners have been directed to submit their show cause with regard to encroachment made by them over the land appertaining to Plot No.570, situated in P.S. - Baniyapur, District-Saran by 16.02.2018 at 03.00 P.M., failing which the matter will be decided ex parte.

Interlocutory Application No. 2084 of 2018 has been preferred for staying the operation of Notice dated 05.02.2018, as contained in Annexure-3 issued under the signature of Respondent No.4, the Circle Officer, Saran.

It is submitted by learned counsel for the petitioners that the petitioner constructed his residential house over his raiyati land appertaining to Plot No. 1490 and the road under construction is being made over the Plot No.1570, Khata No.397 which is passing adjacent to Plot No.1490, which is raiyati plot of the petitioners. Hence, there is misconception with regard to the encroachment being made by the petitioners. However, the measurement work has not been done in presence of the petitioners, nor the authority has considered the relevant document submitted by the petitioners in his favour.

A counter affidavit has been filed in response to the Interlocutory application as well as to the writ application which



suggests that twice the measurement was done.

It is submitted by learned SC-25 that the petitioners were noticed, but he made obstruction not only in construction of the road, but also during measurement of the land in question and now the proceeding of Encroachment Case No.19 of 2017-18 has already been taken concluded and final order has been passed on 10.04.2018.

Having heard learned counsels for the parties, it appears that in the writ application a Notice under Section 6(2) of the Act has been challenged, whereas, final order under Section 6(1) has already been passed. Hence, the writ application has become infructuous.

Accordingly, it is dismissed.

However, the petitioners are given liberty to prefer appeal against the final order passed in Encroachment Case No.19 of 2017-18 within a period of four weeks of receipt or production of a copy of the order along with an application for condonation of delay in filing of the appeal.

It is expected from the Appellate Authority that if any appeal is filed along with an application for condonation of delay, within the stipulated time indicated above, the same may be considered in view of the fact that the petitioners were



pursuing his remedy before this Court since 15.03.2018.

It is expected from the respondent authorities to maintain status quo with regard to the residential house of the petitioners for the next four weeks from the date of receipt/production of a copy of this order.

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

