

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2003 of 2018

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1. Ram Bilash Sharma son of Late Nathuni Sharma
 2. Ramadhar Sharma son of Late Nathuni Sharma
 3. Dinesh Sharma son of Late Ram Jatan Sharma All residents of village - Selarpur, PO - Naowan, P.S. - Shakurabad, District - 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, PS - Shakurabad, District - Jehanabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar
For the Respondent/s : Mr. SAJID SALIM KHAN -SC25

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 09-02-2018 Heard learned counsels for the parties.

This court is not inclined to issue notice to respondent no.

6 in view of the nature of the order this court intends to pass.

The present writ application has been filed for setting aside the Notice issued vide Memo Nos. 51 and 52 dated 19.1.2018, under the signature of respondent no. 5, the Circle Officer, Ratni Faridpur, as contained in Annexure 5 whereby the petitioners have been asked to remove the encroachment within a week from the land which was subject matter of CWJC No. 15343 of 2016, wherein it was directed to respondent no. 5 to implement



the final order passed in Encroachment Case No. 1 of 2015-16 and Encroachment Case No. 3 of 2015-16.

It is submitted by learned counsel for the petitioners that the Encroachment Case No. 1 of 2015-16 and Encroachment Case No. 3 of 2015-16 were initiated for removal of encroachment from the land appertaining to Khata No. 1002, Plot No. 3742 and Khata No. 2543, Plot No. 3736, situated in Mauza Selarpur in the District of Jehanabad. The petitioners claim that their residential houses are situated on the land in question. The petitioners preferred appeal against the final order dated 2.2.2016 passed in Encroachment Case No. 1 of 2015-16 and Encroachment Case No. 3 of 2015-16, along with a prayer for stay, before the Collector, Jehanabad. Since the Collector is not holding court, hence the appeal is not being admitted and in the meantime, impugned Notice dated 19.1.2018 has been issued but the same has not been challenged before the appellate authority. It is further submitted that the notice dated 19.1.2018 does not depict the description of the land in question which suggests the mechanical manner in which the same has been issued. Hence, the present writ application.

Mr. Sajid Salim Khan, learned S.C. 25 submits that respondent no. 6 Surendra Sharma earlier preferred a writ



application being C.W.J.C. No. 15343 of 2016, which was disposed of by this Court vide order dated 4.7.2017, directing the Circle Officer, Ratni Faridpur to get the final order passed in Encroachment Case No. 1 of 2015-16 and Encroachment Case No. 3 of 2015-16, implemented within a period of six weeks, if it has already not been implemented or modified or challenged in appeal or set aside, after giving due opportunity of being heard to all the affected persons. Hence, it is submitted that stay of the impugned notice will amount to passing a conflicting order by this Court. Moreover, it appears from the pleadings of the writ application that against the final order dated 2.2.2016 passed in Encroachment Case No. 1 of 2015-16 and Encroachment Case No. 3 of 2015-16, by the respondent no. 5, Circle Officer, Ratni Faridpur, appeal has been preferred by the petitioners before the Collector, Jehanabad in January, 2018.

Considering the rival submissions of learned counsels for the parties, in view of the appeal preferred by the petitioners and the impugned notice having been issued by the Circle Officer, Ratni Faridpur, pursuant to the direction of this Court in C.W.J.C. No. 15343 of 2016, to the effect that the proceeding of Encroachment Case No. 1 of 2015-16 and Encroachment Case No. 3 of 2015-16 be taken to its logical conclusion, this Court is



not inclined to interfere in the matter.

However, it is expected from the respondent no. 2, the Collector, Jehanabad to dispose of the appeal of the petitioners expeditiously or in the alternative decide the prayer of the petitioners for interim stay, if any, during the pendency of appeal. At the same time, it is expected from the respondent no. 5, the Circle Officer, Ratni Faridpur to issue fresh notice under section 6(2) of the Bihar Public Land Encroachment Act in Form II as the impugned notice has neither been issued under Form II of the Schedule of the said Act nor it describes the details of the land encroached upon.

This writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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