

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17234 of 2018

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1. Mohan Prasad, Son of Late Jagdish Prasad @ Jagdish Prasad Sah
 2. Chandan Kumar Son of Mohan Prasad
 3. Nitish Kumar Son of Mohan Prasad All resident of Village-
Sikandra Bazar Thana Mor Sikandra, P.S. Sikandra, District-
Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Collector, Jamui.
3. The Deputy Collector Land Reforms, Sadar Jamui.
4. The Anchaladhikari, Sikandra, District- Jamui.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Jagdish Prasad Bhagat, Advocate
For the Respondent/s : Mr. Sajid Salim Khan - SC25

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 05-09-2018 By filing the present writ petition under Article 226 of the Constitution of India, the petitioners have prayed for setting aside the notice contained in Memo No. 299, dated 28.05.2018, issued by the Respondent No. 4, Circle Officer, Sikandra, Jamui, whereby the Circle Officer has directed the petitioners to remove the encroachment over the land in question in compliance and obedience of the order passed under Sections 3(1) and 6(1) of the Bihar Land Encroachment Act, 1956 in Land Encroachment Case No. 17 of 2017-18.

The only submission on behalf of the original



petitioners is that since the Title Suit No. 195 of 2017 is pending adjudication, in respect of right, title, interest and possession of the land against the State Authorities, and till the aforesaid suit is disposed off, the further proceedings in the Encroachment Case No. 17 of 2017-18 may be stayed.

However, it is required to be noted that the aforesaid Title Suit No. 195 of 2017 has been preferred by the petitioners only after the encroachment case was initiated against them under the provisions of the Bihar Land Encroachment Act, 1956. It is also required to be noted that even the *Jamabandi* of the petitioners has been set aside. Thereafter, a final order has been passed in the encroachment case to which even the petitioners were also parties. It is required to be noted that even the Civil Court has not granted injunction in favour of the petitioners in the Title Suit. Only thereafter and after passing the final order under Section 3(1), the impugned notice under Section 6(1) has been issued, which cannot be said to be illegal. The same has been issued after following the required procedure under the provisions of the Bihar Land Encroachment Act, 1956.

As observed here-in-above, the Title Suit was filed subsequent to the initiation of the encroachment case and even



in the suit, the petitioners were failed to get any injunction and their applications were rejected.

Considering the aforesaid facts and circumstances, the petitioners are not entitled to any relief under Article 226 of the Constitution of India.

The petition is dismissed.

(Mukesh R. Shah, CJ)

(Ashutosh Kumar, J)

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