

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3717 of 2018

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1. Pushpa Devi w/o Suraj Kumar Ram
 2. Suman Devi w/o Sunil Kumar Ram Both resident of village + P.O. Sakulawan Khurd, P.S. + District - Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Land Reform, Govt. of Bihar, Patna.
3. The District Magistrate, Gopalganj.
4. The Deputy Land Reforms Officer, Gopalganj.
5. The Anchal Adhikari, Thawe, Gopalganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satyendra Kumar Sinha, Advocate
For the Respondent/s : Mr. Sajid Salim Khan, SC-25
Mr. Washi Ahmad Khan, AC to SC-25

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

03/ 16-08-2018

Heard Mr. Satyendra Kumar Sinha, learned

counsel for the petitioners and Mr. Washi Ahmad Khan, learned
AC to SC-25.

The present writ application has been filed with a prayer for staying the purport of the Notice dated 02.02.2018 and 09.02.2018 issued under the signature of Respondent No. 5, Circle Officer, Thawe in Encroachment Case No. 14 of 2017-18, as contained in Annexure-3, whereby five persons namely, Nagina Ram, Hiranman Ram, Lalbabu Ram, Dhimali Ram and Ramayan Ram were directed to remove the encroachment from the public land/road appertaining to Revenue



Thana No. 56, Khata No. 91, Plot No. 605 situated in Mauza – Sukulwa Khurd, District - Gopalganj by 24.02.2018, failing which it will be removed by deployment of police force and total responsibility will be of the encroachers. The notice also stipulates that the same has been issued in pursuance to the order passed in C.W.J.C. No. 14706 of 2015.

It is submitted by learned counsel for the petitioners that, though, the notice has not been issued in favour of the petitioners, but it has been issued in favour of Hiranman Ram, who happens to be father-in-law of the petitioners and on the land in question, the residential house of the petitioners has been constructed under Indira Awas scheme. Moreover, vide order dated 09.10.2017 passed in C.W.J.C. No. 14706 of 2015, as contained in Annexure-1, this Court had given liberty to Respondent No. 5, the Circle Officer, Thawe to examine the issue and if it appears to him that the land appertaining to Thana No. 56, Khata No. 91, Plot No. 605, situated in village Sukulwa Khurd, District – Gopalganj is a public land, then to initiate a proceeding under Bihar Public Land Encroachment Act, 1956 within two weeks of the receipt/production of a copy of the order, if it has already not been initiated and to take the proceeding to its logical end within a period of three months, after giving due opportunity



of hearing to all the affected persons in accordance with the provisions of the Bihar Public Land Encroachment Act, but the petitioners have not been noticed, but since the residential house of the petitioners is situated on the land in question, hence, the present writ application.

Mr. Washi Ahmad Khan, learned AC to SC-25 submits that the prayer of stay of notice has been made, but the same has not been issued in favour of the petitioners and if the petitioners have any grievance in that regard they should file an appropriate application before the Circle Officer in the concerned encroachment proceeding.

Having heard the learned counsels for the parties, since the impugned Notice, as contained in Annexure-3, has not been issued in favour of the petitioners, this Court is not inclined to interfere. However, it is made clear that this Court's order dated 09.10.2017 passed in C.W.J.C. No. 14706 of 2015, as contained in Annexure-1, is very specific that the encroachment proceeding has to be taken to its logical end after giving notice and hearing to all the affected persons.

In the circumstances, the petitioners are at liberty to submit an objection in Encroachment Case No. 14 of 2017-18, if they claim to have their houses situated on the land in



question, whereupon it is expected from Respondent No. 5, Circle Officer, Thawe to consider their claim in view of the abovementioned directions given by this Court in earlier order and under the provisions of Bihar Public Land Encroachment Act, 1956.

Accordingly, this writ application is disposed of.

(Dinesh Kumar Singh, J)

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