

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2978 of 2019

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1. Jai Prakash Kumar @ Jai Prakash Pandey, aged about 40 Years, Male, S/o Late Raghubir Pandey, Resident of Mohalla-I.T.I. Colony, P.S.-Bettiah (M), Dist-West Champaran, presently Residing of Mohalla-Check-Post, Ujjain Tola, P.S.-Bettiah (M), Distt.-West Champaran.
 2. Bijay Kumar Mishra @ Bijay Mishra, aged about 42 Years, Male, S/o Late Hari Shankar Mishra.
 3. Jatan Yadav @ Jagatnarayan Yadav, aged about 51 Years, Male, S/o Late Mangani Yadav. Both Residents of Mohalla-Checkpost, Ujjain Tola, P.S. Bettiah (M), District-West Champaran.

... .. Petitioners

Versus

1. The State of Bihar through the Collector-Cum-District Magistrate, West Champaran at Bettiah.
2. The Collector-Cum-District Magistrate, West Champaran at Bettiah.
3. The Sub-Divisional Officer, Bettiah Sadar, Bettiah, Distt.-West Champaran.
4. The Circle Officer, Bettiah Block, Bettiah, District-West Champaran.
5. The Manager, Bettiah Estate, Bettiah, District-West Champaran.

... .. Respondents

Appearance :

For the Petitioners	:	M/S. Sanjeev Kumar, Uday Pratap Singh and Mritunjay Upadhyaya, Advocates.
For the State	:	Mrs. Sangha Mitra Ghosh, A.C. to G.P. 15.
For the Bettiah Estate	:	M/S. Shailendra Kumar Singh and Nirala Kumar Singh, Advocates.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 15-02-2019 Heard learned counsel for the petitioners and learned counsel for the respondents.

The present writ application has been filed on behalf of the petitioners for issuance of an appropriate writ, order/s and direction for quashing the notices dated 28.06.2018, issued by the respondent no. 4 in Encroachment Case No. 01/2018-19 whereby and whereunder the petitioners have been directed to



remove their premises from a piece of land appertaining to Khata No. 2, Plot No. 327 falling within Ujjain Tola Mauza of Bettiah Block of West Champaran District as these notices have been issued without following due procedure of law and without providing proper opportunity of hearing to the petitioners, as also, without providing them reasonable opportunity to adduce evidence/s in support of their case (Annexure-2 series) and to hold that the impugned notices have been issued without following the mandatory provisions contained in Bihar Public Land Encroachment Act, hereinafter referred to as 'The Act' and to hold that the land in question is not a public land within the meaning of the Act and the entire proceeding initiated by the respondent no. 4 under the Act is completely without jurisdiction.

It is submitted by learned counsel for the petitioners that in pursuance to the notices issued under Section 3 of the Bihar Public Land Encroachment Act, the petitioners had appeared before the respondent no. 4 i.e. The Circle Officer, Bettiah Block, Bettiah, District-West Champaran with the relevant documents in respect of land in question in compliance to Section 4 of the Act. It has further been submitted that there is no compliance of Section 5 of the Act. No opportunity of



hearing was given to the petitioners and order was passed under Section 6 of the Bihar Public Land Encroachment Act in Encroachment Case No. 1/18-19 by the respondent no. 4 i.e. The Circle Officer, Bettiah Block, Bettiah, District-West Champaran.

Considering the submissions made on behalf of the parties, the notices under challenge dated 28.06.2018, issued by the respondent no. 4 i.e. The Circle Officer, Bettiah Block, Bettiah, District-West Champaran, vide Annexure-2 series to the present writ application, are quashed.

The petitioners are directed to appear on 06.03.2019 at 11.30 A.M. in the office of the respondent no. 4 i.e. The Circle Officer, Bettiah Block, Bettiah, District-West Champaran in compliance of Section 4 of the Act. The respondent no. 4 i.e. The Circle Officer, Bettiah Block, Bettiah, District-West Champaran, shall fix the date for hearing in compliance of Section 5 of the Act, issuing notice to all concerned parties and after giving opportunity of hearing, and pass an appropriate order within a period of two months from the date of appearance i.e. 06.03.2019.

Till then status-quo is to be maintained.

With the aforesaid observations and directions, the



present writ application stands disposed of.

(Sudhir Singh, J)

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