

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2487 of 2014

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1. Jai Lal Sah S/O Late Achchhe Lal Sah Resident Of Village - Baisi Chouck, P.O. and P.S. Baisi, District - Purnia
 2. Mahesh Sah S/Olate Ram Briksh Sah Resident Of Village - Baisi Chouck, P.O. and P.S. Baisi, District - Purnia
 3. Ram Bilash Sah S/O Late Achchhe Lal Sah Resident Of Village - Baisi Chouck, P.O. and P.S. Baisi, District - Purnia

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Purnia, District - Purnia
3. The Circle Officer, Baisi, P.S. Baisi, Distt. Purnia
4. The Head Master, Baisi High School Baisi, P.S. Baisi, District - Purnia

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sushanta Kumar Das
For the Respondent/s : Mr.Purnendu Singh, GP-27

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 15-11-2019 The present writ petition has been filed for quashing the notice dated 16.01.2014 issued by the Circle Officer, Baisi, District-Purnia, whereby and whereunder the petitioners have been directed to remove the encroachment in question.

The learned counsel for the petitioner has submitted that neither any proceeding under the provision of the Bihar Public Land Encroachment Act, 1956 has been initiated against the petitioners nor any notice under Section 3 of the Act, 1956 has been issued nor the procedure enshrined under Section 5 of the Act, 1956 has been followed nor any final order under



Section 6(1) of the Act, 1956 has been passed so as to warrant any action against the petitioners for removal of encroachment in question, hence the impugned order dated 16.01.2014 is illegal, without jurisdiction and fit to be set aside.

Per contra, the learned counsel for the respondent State is not in a position to deny the aforesaid contention of the petitioners to the effect that no proceeding has been initiated under the provisions of the Bihar Public Land Encroachment Act, 1956 and straightaway a notice for removal of encroachment in question has been issued by the Circle Officer, Baisi, District-Purnia which is dated 16.01.2014.

Having regard to the facts and circumstances of the case and for the reasons discussed herein above, this Court is of the view that the notice dated 16.01.2014 issued by the Circle Officer, Baisi, District-Purnia is illegal and *dehors* the provisions of the Act, 1956, hence is quashed. The writ petition is allowed. However, liberty is granted to the Circle Officer, Baisi, District-Purnia to proceed further in the matter in accordance with the provisions of the Bihar Public Land Encroachment Act, 1956.

(Mohit Kumar Shah, J)

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