

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.747 of 2019

In
Civil Writ Jurisdiction Case No.8456 of 2019

-
-
1. Harishankar Yadav S/o Late Dukhi Yadav R/o Village -Sarari, P.O. and P.S.- Goreyakothi, District- Siwan.
 2. Harinandan Yadav S/o Late Dukhi Yadav R/o Village -Sarari, P.O. and P.S.- Goreyakothi, District- Siwan.
 3. Raghunandan Yadav S/o Late Dukhi Yadav R/o Village -Sarari, P.O. and P.S.- Goreyakothi, District- Siwan.

... .. Appellant/s

Versus

1. The State of Bihar Through Collector-cum-District Magistrate, Siwan.
2. The Collector-cum-District Magistrate Siwan.
3. The Sub-Divisional Officer Maharajganj, District- Siwan.
4. The Circle Officer Anchal- Goreyakothi, District- Siwan.
5. Kalavati kunwar @ Kalawati Devi W/o Late Bachan Ray R/o Village Jalpurawa, Mauja- Sarari, P.O.- Mustafabad, P.S. and Anchal- Goreyakothi, Sub-division- Maharajganj, District- Siwan.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Chandra Kant, Advocate
For the Respondent/s	:	Mrs. Nutan Sahay, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 01-07-2019

I.A. No. 01/2019

Having heard learned counsel for the parties, we are satisfied that the delay has been sufficiently explained. The delay condonation application is allowed. The appeal shall be treated to be within time.

L.P.A. No. 747/2019



Heard learned counsel for the appellants.

The appellants are respondent Nos. 5 to 7 in C.W.J.C. No. 8456 of 2019 that was filed by the respondent-petitioner contending that the appellants have encroached over public land.

The same writ petition was disposed of ex parte to the appellants without issuing notice to them on 19th of April, 2019. The learned Single Judge issued a direction that the writ petitioner will file an application before the competent authority under the Bihar Public Land Encroachment Act whereafter the Circle Officer concerned will take appropriate steps to serve notice and then proceed in accordance therewith.

The appellants have come up contending that the writ petition ought to be dismissed as the appellants have already filed Title Suit and secondly they are in possession since long which aspect together with the evidence in support thereof was required to be looked into before any direction was given.

The second argument of the learned counsel for the appellant is that the Circle Officer had issued a notice in terms of Section 3 of the Bihar Public Land Encroachment Act whereafter a reply has been filed, but he is in a haste to demolish the constructions of the appellants without taking recourse to law and without



passing any final order. It is in these circumstances that the present appeal has been preferred.

We have also heard learned counsel for the writ petitioner Shri Pramod Kumar Singh and Mrs. Nutan Sahay, for the State.

We find that the fact that the appellants were parties before the learned Single Judge and were not issued notices is admitted. Thereafter, the Circle Officer has issued notices and the appellants have filed a reply, but their contention is that the Circle Officer has threatened to demolish the constructions without passing any final order.

Learned counsel for the respondents do not dispute the position that the orders have not yet been finally passed by the Circle Officer as per the directions of this Hon'ble Court.

In the given circumstances, we direct that the Circle Officer shall give a reasonable opportunity of hearing to the appellants and then proceed to pass a final order in terms of the Bihar Public Land Encroachment Act preferably within a period of two months from today.

It is further directed that till final orders are passed, no coercive steps shall be taken for removal of any alleged encroachment. It is clarified that in the event, the constructions



are found to be encroachments under the Act, then appropriate steps shall be taken under law.

The appeal stands, accordingly, disposed of.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Saif/-

AFR/NAFR	
CAV DATE	N.A.
Uploading Date	02.07.2019
Transmission Date	N.A.

