

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14537 of 2019

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1. Shrinath Yadav Son of Ram Prasad Yadav, Resident of Village- Pipra, Police Station- Daraudndha District- Siwan.
 2. Shambhu Sah Son of Bunilal Sah@ Bunni Sah Resident of Village- Pipra, Police Station- Daraudndha District- Siwan.
 3. Ram Bilas Sah, Son of Chhathu Sah, Resident of Village- Pipra, Police Station- Daraudndha District- Siwan.
 4. Ved Prakash Sharma, Son of Nagendra Sharma, Resident of Village- Pipra, Police Station- Daraudndha District- Siwan.
 5. Ramesh Kumar Yadav, Son of late Kamal Yadav, Resident of Village- Pipra, Police Station- Daraudndha District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Siwan.
2. The District Magistrate, Siwan.
3. The Additional Collector, Siwan.
4. The Circle Officer, Daraundha, District- Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ravindra Nath Dubey
For the Respondent/s	:	Mr.Rishi Raj Sinha (SC-19)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 23-07-2019 The learned counsel for the petitioners submits that the Circle Officer, Daraunda, District-Siwan has issued notice for removal of encroachment on the land in question without hearing the petitioners herein as also without initiating any proceedings under the Bihar Public Land Encroachment Act, 1956 in purported exercise of powers said to have been derived by the Circle Officer by an order passed by the learned Division Bench of this Court in CWJC No. 2925 of 2017.

The learned counsel for the petitioners submits, by referring to the order dated 28.07.2017 passed in CWJC No. 2925 of 2017, that the learned Division Bench of this Court has



directed the Circle Officer concerned to register proceedings under the Bihar Public Land Encroachment Act, to issue notice to the encroachers, seek their reply and only then remove the encroachment, in accordance with law. It is submitted that till date no encroachment proceedings have been initiated, hence the notice issued to the petitioner for removal of the encroachment is bad.

Having regard to the facts and circumstances of the case, this Court finds that the notice issued to the petitioners by the Circle Officer, Daraunda, District-Siwan, are bad in law, hence are quashed.

It goes without saying that the Circle Officer, Daraunda, District-Siwan, would be at liberty to initiate appropriate proceedings under the Bihar Public Land Encroachment Act, 1956 and after issuing notice to the petitioners and seeking their response, would be free to pass appropriate orders, under Section 6 of the Bihar Land Encroachment Act, 1956 and thereafter remove the encroachments, if any.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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