

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17568 of 2019

1. Ali Hasan Son of late Gaffar Miyan@ Abdul Gaffar, Resident of Village- Dev, P.S. Dev, District- Aurangabad.
2. Habib Mian, Son of Mansur Miyan, Resident of Village- Dev, P.S. Dev, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary Revenue Department Government of Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, Home Department, Government of Bihar, Patna.
4. The District Magistrate, Aurangabad.
5. The Sub Divisional Officer, Aurangabad.
6. The Circle Officer, Dev, Aurangabad.
7. Md. Mumtaz Ali, Son of Allaudin Miyan, Resident of Village- Dev, P.S. Dev, District- Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Bachan Jee Ojha
For the Respondent/s : Mr. Mukul Prasad, AC to GP18

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 29-08-2019 Heard Mr. Bachan Jee Ojha, the learned counsel for the petitioners, and Mr. Mukul Prasad, the learned AC to GP 18.

The petitioners seek quashing of the letter dated 31.05.2019, as contained in letter No. 436, issued under the signature of Circle Officer, Dev, Aurangabad by which the Circle Officer, Aurangabad directed the petitioners to appear and present their case failing which necessary order shall be passed.

The learned counsel for the petitioners submits that



one Execution case being Execution Case No. 26 of 1975 was filed in which delivery of possession of plot Nos. 3553 and 3552, area 4 decimal and 6 decimal respectively, was handed over to Mumtaz Ali. Mumtaz Ali filed CWJC No. 1338 of 2017 and by order dated 12.09.2018 this court directed the District Magistrate and the Superintendent of Police, Aurangabad to make sincere efforts to ensure safety and security of the petitioner and his property in accordance with law but at the same time this court did not express any opinion on the merit of the case. It is submitted that one Title Suit No. 282 of 2006 is still pending and the possession over the land is disputed, therefore, the Circle Officer is not justified in issuing notice to the petitioners.

Having considered the submissions of both sides and on a bare perusal of the letter No. 436 dated 31.05.2019 (Annexure-2), it is evident that the Circle Officer, in pursuance of the order dated 12.09.2018 passed in CWJC No. 1338 of 2017, issued notice to the petitioners to appear and file show cause but instead of appearing before the Circle Officer and showing their cause the petitioners moved this court in the present writ petition.

It appears that the Circle Officer acted in deference of



the order dated 12.09.2018 passed by this court in CWJC No. 1338 of 2017 and issued notice to the petitioners. If the petitioners are at all aggrieved by the order dated 12.09.2018 passed in CWJC No. 1338 of 2017, in which one of the petitioners was respondent No.9, the petitioners have right to file appeal or petition for clarification of the order or appear before the Circle Officer and explain with regard to possession over the dispute land and thereafter the Circle Officer may pass appropriate order in accordance with law.

Thus, I find no reason to interfere with the notice issued to the petitioners by the Circle Officer, Dev, Aurangabad in pursuance of the order passed by this court in CWJC No. 1338 of 2017. Accordingly, I do not find any merit in this writ petition and the same is, accordingly, dismissed.

(Prabhat Kumar Jha, J)

BKS/-

U			
---	--	--	--

