

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1659 of 2019

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1. Manoj Mahto, Son of Sri Raghunath Mahto, resident of Mohalla Dujra Purvi Gali, P.S. Buddha Colony, Dist.- Patna.
 2. Rameshwar Prasad, Son of Late Mathura Saw, Mohalla- Rajapur, Pathuri Kutti Machine, P.S. Srikrishnapuri, Dist.- Patna.
 3. Shashi Bhushan, Son of Skhari Mahto, resident of Mohalla- North Mandiri, Kali Mandir, Near Pump House, P.S. Buddha Colony, Dist.- Patna.
 4. Meena Devi, Wife of Vakil Prasad, resident of Mohalla- North Mandiri, Kali Mandir, Near Pump House, P.S.-Buddha Colony, Dist.- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Revenue Department, Bihar Government, Patna.
2. The District Magistrate, Patna.
3. The Deputy Collector, Land Reform, Patna.
4. The Circle Officer, Patna Sadar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Nityanand
For the Respondent/s : Mr.Sajid Salim Khan (Sc25)

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 31-01-2019 Heard the parties.

Following reliefs have been sought for in paragraphs 1(A)
and 1(B) of the present application on behalf of the petitioners:

“1(A) A writ in the nature of certiorari or any other writ/s, order/s for quashing the order contained in Notice dated 28.04.2018, issued under the signature of Circle Officer, Patna Sadar, Patna, in Land Encroachment Case No. 39/18-19, by which the petitioners have been ordered to vacate the encroachment from the land bearing Khesra No. 613, situated in Mohalla : Dujra, within 15 days, without giving them opportunity to be heard, failing which they shall be liable to be punished under Section 188 of Indian Penal Code because order has been passed to vacate the encroachment



under Bihar Public Land Encroachment Act.

(B) A writ in the nature of mandamus or any other writ/s, order/s for followings:

(i) To stay the operation of order contained in Notice dated 28.04.2018 issued under the signature of Circle Officer, Patna Sadar, Patna, in Land Encroachment Case No. 39/18-19.

(ii) To hold that order under challenge is illegal, improper and without jurisdiction.

(iii) To hold that the order under challenge is passed in violation of natural justice.”

A notice dated 28.04.2018 passed in Encroachment Case No. 39/18-19 (Annexure-4) is under challenge. The said notice has been issued under Section 6(2) of the Bihar Public Land Encroachment Act (for short ‘the Act’). The contention of the petitioners is that no notice under Section 3 of the Act was served on the petitioners, hence, he could not produce the documents before the authority in compliance of Section 4 of the Act. The petitioners had further applied for certified copy of the order passed under Section 6(1) of the Act but the same has not been supplied to him by the competent authority.

On behalf of the State, it is submitted that petitioners have statutory remedy under Section 11 of the Act of filing an appeal.

Considering the aforesaid facts and circumstances, the petitioners are directed to file an appeal under Section 11 of the Act before the competent authority within a period of 30 days from today. The Appellate Authority shall consider the case of



the petitioner in accordance with law and pass an appropriate order, after giving opportunity to the concerned parties, within a period of three months from the date of filing of such appeal. In the meantime, status quo shall be maintained.

With the aforesaid observation/direction, the present writ application stands disposed of.

(Sudhir Singh, J)

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