

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23195 of 2019

1. Hari Shankar Sah son of late Chthru Sah, Resident of village Khodar Kaha, P.S. Motipur, District Muzaffarpur.
2. Ashok Jaiswal alias Ashok Kumar Chaudhary, son of late Ramesh ray Jaiswal, Resident of village Khodar Kaha, P.S. Motipur, District Muzaffarpur.
3. Ramnaresh Sah, son of late Badiyath Nath Sah, Resident of village Khodar Kaha, P.S. Motipur, District Muzaffarpur.
4. Md. Manzur alias Mazoor, son of Abdul Gaffur, Resident of village Khodar Kaha, P.S. Motipur, District Muzaffarpur.
5. Shiv Chandra Mahto, son of Bindeshwari Mahto, Resident of village Khodar Kaha, P.S. Motipur, District Muzaffarpur.
6. Vikas Kumar Chaudhary, son of late Laxmi Chaudhary, Resident of village Khodar Kaha, P.S. Motipur, District Muzaffarpur.
7. Shambhu Das, son of late Dev Nandan Das, Resident of village Khodar Kaha, P.S. Motipur, District Muzaffarpur.
8. Banwari Thakur, son of late Satya Narayan Thakur, Resident of village Khodar Kaha, P.S. Motipur, District Muzaffarpur.
9. Gopal Chaudhary, son of late Heera lal Cahudhary, Resident of village Khodar Kaha, P.S. Motipur, District Muzaffarpur.
10. Inderjeet Chaudhary, son of Hari lal Chaudhary, Resident of village Khodar Kaha, P.S. Motipur, District Muzaffarpur.
11. Ramesh Thakur, son of late Nand Lal Thakur, Resident of village Khodar Kaha, P.S. Motipur, District Muzaffarpur.
12. Sunil Thakur, son of Bishundev Thakur, Resident of village Khodar Kaha, P.S. Motipur, District Muzaffarpur.
13. Dr. Madan Pandit, son of late Shiv Raj Pandit, Resident of village Khodar Kaha, P.S. Motipur, District Muzaffarpur.
14. Devakr Kuamr, son of late Ram Ayodhya Pandit, Resident of village Khodar Kaha, P.S. Motipur, District Muzaffarpur.
15. Lalan Pandit alias Lalan Mandal, son of Ramchandra Mandal, Resident of village Khodar Kaha, P.S. Motipur, District Muzaffarpur.
16. Ram Binay Singh, son of late Moti Singh, Resident of village Khodar Kaha, P.S. Motipur, District Muzaffarpur.
17. Vijay Kumar, son of Shiv Nath Sah, Resident of village Khodar Kaha, P.S. Motipur, District Muzaffarpur.
18. Rajendra Sah, son of late Baijnath Sah, Resident of village Khodar Kaha, P.S. Motipur, District Muzaffarpur.
19. Suresh Patel, son of late Harendra Patel, Resident of village Khodar Kaha, P.S. Motipur, District Muzaffarpur.
20. Akbar Ali, son of Sultan Mian, Resident of village Khodar Kaha, P.S. Motipur, District Muzaffarpur.



21. Manoj Kumar, son of Rameshwar Sah, Resident of village Khodar Kaha,
P.S. Motipur, District Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Muzaffarpur.
2. The Anchal Adhikari, Muzaffarpur.
3. The Sub Divisional Officer, Muzaffarpur.
4. The Sub House Officer, Bruraj Police Station, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Syed Qaisar Hasan, Advocate
For the State	:	Mr. Rishi Raj Sinha (SC-19)
		Mr. Akhilesh Kumar Sinha, A.C. to S.C.-19

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 16-12-2019

Heard learned counsel for the parties.

2. This application has been filed by 21 persons seeking quashing of notice contained in letter No. 1900 dated 19.10.2019 issued under Bihar Public Land Encroachment Act, whereby the Circle Officer has requested the Sub Divisional Officer, Muzaffarpur, for deployment of Armed Forces along with Magistrate for removal of encroachment.

3. My attention has been drawn to Annexure-P/1 of the writ application which is the letter written by the Circle Officer, Motipur, addressed to the Sub Divisional Officer, Muzaffarpur (West) dated 19.10.2019.

4. Learned counsel appearing on behalf of the petitioners has urged that before issuance of the said letter, no



proceeding in accordance with the provisions of Bihar Public Land Encroachment Act, was initiated.

5. From the notice dated 06.09.2019, which is available on record by way of Annexure-P/2 of the writ application, it transpires that a notice was served upon the petitioners under Section 6 (e) of the Act asking them to remove the encroachment made by them over a public land in the nature of water body (*Pokhar*). It is the petitioners' plea that they have not encroached upon any water body, rather they are running their shops over flank of the *Pokhar* in question.

6. It goes without saying that encroachment from public land can be removed by following the procedure prescribed under the provisions of the Bihar Public Land Encroachment Act or under Section 133 of the Code of Criminal Procedure after giving due notice to the persons aggrieved. The fact that the petitioners were noticed, is evident from Annexure-P/2. It is not known whether any finding of the competent authority is there that the land in question is a public land.

7. It is, accordingly, observed that whereas the petitioners shall not resist removal of encroachment if the land in their own opinion is a public land, the authority shall proceed to



remove the encroachment, once they are satisfied that the land in question is a public land and has been illegally encroached.

8. This writ application stands disposed of with aforesaid observation.

(Chakradhari Sharan Singh, J)

S.Ali/-

AFR/NAFR	
CAV DATE	N.A.
Uploading Date	20/12/2019
Transmission Date	N.A.

