

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25416 of 2019

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1. Sundeshwar Thakur Son of Rambhagat Thakur R/o Village Harpur Jhakra, P.S. Kalyanpur, District- Samastipur.
 2. Laxmeshwar Thakur Son of Rambhagat Thakur R/o Village Harpur Jhakra, P.S. Kalyanpur, District- Samastipur.

... .. Petitioners

Versus

1. The State of Bihar through its Secretary, Land Reform Department, Govt. of Bihar, Patna.
2. The District Magistrate, Samastipur.
3. The Sub- Division Officer, Samastipur.
4. The Circle Officer, Kalyanpur, Samastipur.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Shashi Bhushan Kumar
For the Respondent/s : Mr.Subash Chandra Yadav (Gp15)

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 19-12-2019 The petitioners were put to notice under Section 3 of the Bihar Public Land Encroachment Act for making encroachment over a public land. The petitioners had responded to the said notice with a claim that they had not made any encroachment and, in fact, the land, in question, was taken in exchange from one Raj Narayan Sharma, who had got it settled in his favour under welfare scheme of the State Government for Army Personnel.

The Collector, within the meaning of the Act, has, however, issued notice under Section 6(e) of the Act on 25.11.2019 asking the petitioners to remove the encroachments.



It is the case of the petitioners that the said notice has been issued without complying with the requirement of Section 5 of the Act inasmuch as no personal hearing was given to the petitioners.

Be that as it may, the petitioners have statutory right of appeal under Section 11 of the Act, which they have not availed. This writ application is thus disposed of with an observation that the petitioners shall be at liberty to approach the appellate authority under Section 11 of the Act. If the petitioners do so within a fortnight from today, no objection on the point of limitation shall be taken and the petitioners' appeal shall be decided on merits. The petitioners shall be at liberty to seek before the appellate authority, interim protection during the pendency of appeal, which shall be considered appropriately in accordance with law by the appellate authority.

This writ application stands disposed of.

(Chakradhari Sharan Singh, J)

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