

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24883 of 2019

-
-
1. Ajay Thakur, Son of Late Satya Thakur, Resident of Village - Ward 13 Harpur Jakhra, P.S. Kalyanpur, Distt.- Samastipur.
 2. Bhajan Rai, Son of Gena Rai, Resident of Village - Ward 13 Harpur Jakhra, P.S. Kalyanpur, Distt.- Samastipur.
 3. Hari Bans Yadav, Son of Nirdhan Yadav, Resident of Village - Ward 13 Harpur Jakhra, P.S. Kalyanpur, Distt.- Samastipur.
 4. Uday Shankar Mishr Son of Shiv Sagar Mishr, Resident of Village - Ward 13 Harpur Jakhra, P.S. Kalyanpur, Distt.- Samastipur.
 5. Chandra Deep Mishr Son of Shiv Sagar Mishr, Resident of Village - Ward 13 Harpur Jakhra, P.S. Kalyanpur, Distt.- Samastipur.
 6. Lalan Mishr Son of Shiv Sagar Mishr, Resident of Village - Ward 13 Harpur Jakhra, P.S. Kalyanpur, Distt.- Samastipur.
 7. Ram Sagivan Mishr, Son of Ram Prasad Mishr, Resident of Village - Ward 13 Harpur Jakhra, P.S. Kalyanpur, Distt.- Samastipur.
 8. SukhLal Yadav, Son of Gena Yadav, Resident of Village - Ward 13 Harpur Jakhra, P.S. Kalyanpur, Distt.- Samastipur.
 9. Subodh Yadav, Son of Thago Yadav, Resident of Village - Ward 13 Harpur Jakhra, P.S. Kalyanpur, Distt.- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Chief Secretary Govt. of Bihar, Patna.
2. The Distt. Magistrate Samastipur.
3. The Circle Officer Kalyanpur under, Distt.- Samastipur.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Mukesh Kumar No1
For the Respondent/s : Mr.Rishi Raj Sinha (Sc19)

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 13-12-2019 A notice dated 25.11.2019. issued by the Circle officer, Kalyanpur, in Encroachment Case No.16 of 2019-20, has been challenged in the present writ application, whereby the petitioners have been asked to vacate the land bearing Khata No. 2227 admeasuring 0.71 decimal. The said notice has



apparently been issued under the provisions of the Bihar Public Land Encroachment Act, 1956. According to the Circle Officer, who is Collector within the meaning of the Act, is of the opinion that the land in question is a public land.

It is the case of the petitioners that one Raj Narayan Sharma was an Army Personnel, who had participated in Indo-China war. In the light of the decision taken by the State of Bihar, as contained in letter No. 1946 dated 23.03.1963, to allot five acres lands for agriculture in favour of someone, who was in active service of Army, the said land was allotted/settled bearing Khesra No. 2227 admeasuring three acre and Khesra No. 1384 admeasuring 90 decimals from other khesras situate under Phulhara Mauza. It is also mentioned in the writ application that certain disputes had arisen, because of which Raj Narayan Sharma had filed a Title Suit, which was decreed *ex-parte* by order dated 12.06.1975. It is the case of the petitioners that they are not encroachers, rather they had purchased the land from a person to whom the State Government had settled the land.

It is apparent that the petitioners are claiming their title over the land in question on the ground of being vendees of the said Raj Narayan Sharma, in whose favour the land was



settled for 'Agriculture' under the welfare scheme of the State Government. The said Raj Narayan Sharma could not derive any right and title over and above the stipulations mentioned in the documents of settlement. It is the petitioners own admission that the lands in question were settled by the State Government in favour of said Raj Narayan Sharma. This is clear admission on their part that the lands were public land. The petitioners have not shown to this Court any material nor have they pleaded to persuade this Court that said Raj Narayan Sharma had such right to transfer his interest in the land to any other person.

This writ application, in my opinion, is wholly misconceived and is dismissed accordingly.

(Chakradhari Sharan Singh, J)

Pawan/-

U			
---	--	--	--

