

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No. 212 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 14994 of 2005

1. Hira Yadav @ Hira Chaudhary.
2. Paltoo Yadav @ Paltoo Chaudhary.
3. Jitan Yadav.
4. Ram Pravesh Yadav.
5. Sukhari Yadav. All Sons of Nathuni Yadav @ Nathuni Chaudhary @ Nageshwar Yadav and residents of Village - Bhelpur, Police Station - Gautam Budha Nagar (Tarwara), District - Siwan.
... .. (Respondent nos. 6 to 10) Petitioner/s

Versus

1. Krishna Prasad, Son of Sri Jaleshwar Prasad.
 2. Bali Ram Prasad, Son of Late Sobhan Prasad.
 3. Bishnath Prasad, Son of Late Indradeo Prasad.
 4. Vikrama Prasad, Son of Late Butan Prasad.
 5. Jai Ram Sah, Son of Late Mahdeo Sah. All residents of Village - Bhelpur, P.O. - Sikanderpur, Anchal - Barharia, District – Siwan.
..... (Writ Petitioner/s)
 6. The State of Bihar.
 7. The District Magistrate-cum-Collector, Siwan.
 8. The Sub-Divisional Officer, Siwan.
 9. The Circle Officer, Barharia.
 10. Md. Hanif, Halka Karamchari, Gram Panchayat Raj Sikandarpur, Anchal - Barharia, District - Siwan.
 11. Ramdresh Yadav Son of Late Nageshwar Yadav.
 12. Bigu Yadav, Son of Late Nageshwar Yadav.
 13. Moti Lal Chaudhary, Son of Late Khali Chaudhary O.P. nos. 11 to 13 are residents of Village - Bhelpur, Police Station - Gautam Budh Nagar (Tarwara), District - Siwan.
... .. (Respondent/s) Opposite Party/s
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Appearance :

For the Petitioner/s : Mr. Suraj Narain Yadav, Advocate
For the State : Mr. Vishwa Ranjan Choudhary, AC to SC 27



**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 14-02-2020

Heard learned counsel for the petitioners and learned AC to SC 27 for the State.

2. The Court is at loss to understand as to why no affidavits are filed on behalf of the respondents in old matters, which are pending for years. Copy of the application has been served on learned counsel for the State on 11.09.2015, but till date no affidavit has been filed on behalf of the authorities.

3. The present application has been filed seeking review of order dated 30.11.2011 passed in CWJC No. 14994 of 2005.

4. Learned counsel for the petitioners submitted that they were respondents no. 6 to 8 in the said writ petition and by the order impugned, there was a direction to the Circle Officer, Barharia to look into the matter and if encroachment is found then the same was to be removed in accordance with law so that the entire road is made free for public use. It was submitted that the said exercise was directed to be completed within three months. Learned counsel submitted that in terms of the order, after three years, on 10.07.2014, the petitioners were issued show cause notice with regard to their lands, alleging that they were encroachers. However, learned counsel submitted that the land



belongs to them and it is their private *raiyati* land, over which their title has been confirmed by the Civil Court. It was submitted that despite reply being filed by the petitioners; on the one hand, no order has been passed and on the other hand the authorities are not permitting the petitioners to repair their houses, which is causing hardship to them. It was submitted that the authorities are misusing the order of the Court for extraneous consideration.

5. Having regard to the aforesaid, the application stands disposed off with a direction to the opposite party no. 9 to take the proceedings of Encroachment Case No. 09/2013-14 to its logical conclusion, if already not done, latest within one month from the date of production of a copy of this order before him. Failure to do so would lead to serious consequences. The District Magistrate-cum-Collector, Siwan (opposite party no. 7) is also directed to ensure such compliance, failing which he too shall be personally liable. Let a copy of this order be also served on the opposite party no. 7.

6. Before parting, in view of no affidavit having been filed in the matter, even after more than four years, the Court deems it appropriate to impost cost of Rs. 10,000/- on the authorities. The same be deposited in the Juvenile Justice Fund of the State Social Welfare Department, within two weeks and



receipt filed, failing which the Registry shall place the matter
before the Bench.

(Ahsanuddin Amanullah, J.)

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