

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22467 of 2019

1. Arjun Sah, (Male), aged about 53 years
2. Yamuna Sah, (Male), aged about 59 years,
Both sons of Late Bashishtha Sah, Resident of Village- Chandanpura,
Police Station- Tilouthu, District- Rohtas.

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms, Govt. of Bihar, Patna.
2. The District Magistrate, Rohtas (Sasaram).
3. The Circle Officer, Tilouthu Circle, District- Rohtas (Sasaram).

... .. Respondents

Appearance :

For the Petitioner/s	:	Ms. Prakritita Sharma, Adv. Mr. Ram Pravesh Nath Tiwari, Adv.
For the Respondent/s	:	Mr. Sajid Salim Khan (SC25) Mr. W.A. Khan, AC to SC-25

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 06-01-2020 The petitioners have challenged the notice dated 18.09.2019 issued under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as the "Act"), which has been described to be a notice under Section 6(2) of the Act.

On perusal of the notice, it appears that the same has, in fact, been issued in Form I of the Act, which is a statutory form under Section 3 of the Act.

Learned counsel appearing on behalf of the petitioners has submitted that without initiation of proceeding under Section 3 of the Act with issuance of notice, giving the



petitioner an opportunity of hearing, as contemplated under Sections 4 and 5 of the Act, final notice under Section 6(2) of the Act could not have been issued, without passing of a final order under the said provision.

I find substance in the submission made by learned counsel for the petitioners that no final notice under Section 6(2) of the Act can be issued without following the prescribed procedure. It appears that mistakenly the Circle Officer has mentioned Section 6(2) of the Act as the statutory provision, under which the notice has been issued. The notice, it appears, was intended to be issued under Section 3 of the Act by the said document dated 18.09.2019.

When the matter was taken up by this Court on 19.11.2019, the respondents were allowed four weeks time to file counter affidavit, till date, however, no counter affidavit has been filed.

Considering the facts and circumstances of the case, this writ application is disposed of with an observation that the notices at Annexures 1 and 1/1(at page 12 and 13) shall be treated to be notice under Section 3 of the Act. The petitioners shall be required to respond to the said notices within two weeks from today before the Circle Officer, Tilouthu. Once the same is



done, the Circle Officer shall, thereafter, proceed in accordance with the provisions under the Act.

(Chakradhari Sharan Singh, J.)

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