

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25082 of 2019

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1. Raghuvansh Thakur S/o Sri Umakant Thakur R/o Village Yogni Jaga, Post Bariyarpur, P.S. Sakra, District- Muzaffarpur.
 2. Ram Kishore Thakur S/o Sri Umakant Thakur R/o Village Yogni Jaga, Post Bariyarpur, P.S. Sakra, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Rural Development Department, Government of Bihar, Secretariat, Patna.
2. The Secretary, Rural Development Department, Government of Bihar, Secretariat, Patna.
3. The District Magistrate, Muzaffarpur, Dist- Muzaffarpur.
4. The SDM (East), Muzaffarpur, Dist- Muzaffarpur.
5. The SHO, Police Station Sakra, Dist- Muzaffarpur.
6. The Circle Officer, Block- Sakra, P.S.- Sakra, Dist- Muzaffarpur.
7. Kundan Kumar R/o Village Yogni Jaga, Post Bariyarpur, P.S. Sakra, Dist- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Surendra Prasad Singh
For the Respondent/s : Mr.Vikash Kumar (Sc11)

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 29-01-2020 Heard learned counsel for the parties.

2. The petitioners are aggrieved by a notice dated 25.09.2019 issued by the Circle Officer whereby the petitioners have been asked to remove the encroachment which they have caused over a public land. They are also seeking a direction to the Sub Divisional Officer (East), Muzaffarpur, to dispose of the case bearing No. M 1199/18 initiated under Section 133 of the Cr. P.C. at the instance of private respondent No. 7.



3. Learned counsel appearing on behalf of the petitioners has referred to the impugned notice dated 25.09.2019 and has submitted that the notice has been issued without giving the petitioners an opportunity of hearing as contemplated under the provisions of Bihar Public Land Encroachment Act, 1956.

4. It appears that the respondent No. 7 has been raising his grievance before the authorities alleging encroachment by the petitioners over a public land. He had approached this Court also by filing a writ application giving rise to CWJC No.12215 of 2019 which was disposed of by an order dated 24.06.2019 with a direction to the Circle Officer, of Sakra Circle, Muzaffarpur, to consider the grievance of the respondent No. 7 within a period of four weeks.

5. It appears from the notice issued by the Circle Officer that the petitioners were allowed to submit their explanation as the Circle Officer was of the view that the petitioners had encroached upon a public land.

6. Learned counsel for the petitioners is unable to inform this Court as to whether they availed the opportunity by filing their explanation or not.

7. It is true that the Collector within the meaning of the Act can proceed to remove encroachment, but in accordance



with the provisions of the Act. If the petitioners have not filed any explanation pursuant to the notice issued by the Circle Officer, the Circle Officer shall be at liberty to proceed in accordance with the provisions under Sections 3, 5 and 6 of the Act.

8. It is further, observed that proceeding under Section 133 of the Cr. P.C., if initiated, must be concluded within one month from the date of receipt/production of a copy of this order.

9. This writ application is, accordingly, disposed of.

(Chakradhari Sharan Singh, J)

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