

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2663 of 2020

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1. Jhuna Devi @ Jhunna Devi, Wife of Late Ram Prasad Sah @ Ram Sah, Resident of Village-Koyri Tola, Habibpur, P.S.-Habibpur, District-Bhagalpur.
 2. Subash Thakur, Son of Late Prameshwar Thakur, Resident of Village-Koyri Tola, Habibpur, P.S.-Habibpur, District-Bhagalpur.
 3. Gopal Sah, Son of Late Bechan Sah, Resident of Village-Koyri Tola, Habibpur, P.S.-Habibpur, District-Bhagalpur.
 4. Jagdish Sah, Son of Late Bhothari Sah, Resident of Village-Koyri Tola, Habibpur, P.S.-Habibpur, District-Bhagalpur.
 5. Laxmi Sah, Son of Late Narsingh Sah, Resident of Village-Koyri Tola, Habibpur, P.S.-Habibpur, District-Bhagalpur.
 6. Diwakar Sah, Son of Late Hira Sah, Resident of Village-Koyri Tola, Habibpur, P.S.-Habibpur, District-Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar .
2. The Collector, Bhagalpur.
3. The Deputy Director, Land Reforms, Sadar, Bhagalpur.
4. The Circle Officer, Jagdishpur, P.S.-Jagdishpur, District-Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ganpati Trivedi, Sr. Advocate
		Mr. Manoj Kumar Jha, Advocate
For the Respondent/s	:	Mr. Mazid Mohammad Kha, AC to (Aag12)

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 06-04-2021 The petitioners have approached this Court for quashing the notice dated 27.12.2019 issued in Case No. 46 of 2019-20, as contained in Annexure-4 to the writ petition purportedly issued under Section 6(2) of the Bihar Public Land Encroachment Act, 1956.

Learned senior counsel appearing for the petitioners



would submit that these petitioners are landless persons. They have constructed their residential houses after settlement of the land by the competent authority and as such the notice to initiate encroachment proceeding is nullity in the eye of law.

Learned counsel for the State would submit that the petitioners are not entitled to encroach upon the public land and as such the respondents are justified to issue notice.

Right to shelter is recognized as one of the integral part of right to live guaranteed under Article 21 of the Constitution of India. The Government had launched various schemes for the habitation of the poor people.

Mr. Trivedi, with reference to the materials available on the record, would submit that many of the petitioners have constructed their houses under the Indira Awas Yojana, one of the prime scheme to provide shelter to the homeless people.

Considering the fact that petitioners claim that they are landless people and they have been settled the lands under the scheme for construction of their residential houses and they are continuing over the constructed houses for the last 30-60 years, the writ petition is disposed of with the direction to the District Magistrate, Bhagalpur to examine the claim of the petitioners as to settlement and the rival claim of encroachment



over the public land after opportunity of hearing to the petitioners. If it is found that the land was settled to these petitioners for the purpose of construction of the residential houses, the District Magistrate shall ensure that alternative arrangement is made for the habitation of the petitioners before taking step for removal of houses of these petitioners. Necessary decision in this regard must be taken by the respondents within a period of six months from the date of receipt/production of a copy of this order.

Until final decision taken by the respondents, the petitioners shall not be dispossessed from the residential houses.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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