

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6596 of 2020

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1. Devendra Prasad Son of Hari Kishore Prasad Resident of Village-Goreya Kothi, P.S.-Goreya Kothi, District-Siwan.
 2. Surya Prakash Bhagat, Son of Dharanath Bhagat. Resident of Village-Goreya Kothi, P.S.-Goreya Kothi, District-Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The District Magistrate-Cum-Collector, Siwan.
3. The Sub-Divisional Officer, Maharajganj
4. The D.C.L.R., Maharajganj.
5. The Anchal Adhikari, Goreya Kothi (Siwan).
6. The Superintendent of Police, Siwan.
7. The S.D.P.O., Maharajganj.
8. The Officer-In-Charge, Goreya Kothi, Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Kamala Kant Tiwary
For the Respondent/s : AC to SC19

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 03-12-2021 Heard Mr. Kamla Kant Tiwary, learned counsel for the petitioners and learned A.C. to Standing Counsel -16 for the State through video conferencing.

The petitioners have filed the present writ application for quashing of the entire proceeding of the Encroachment Case No. 5 of 2010 -11 initiated by the Circle Officer, Goreya Kothi, (Siwan) / respondent no. 5 under which the respondent no. 5 has removed the encroachment from the land in question bearing Khata No. 427, Plot No. 2196, Tauzi No. 1650 having



an area of 8 Katha 12 Dhur.

Learned counsel for the petitioners submits that petitioners are the owners of the plot in question inasmuch as the same was settled by the erstwhile *Jamindar* by way of “*Hukumnama*” for which, they filed Title Suit No. 497 of 2012 and the same is pending before the court of learned Sub Judge -I, Siwan. He further submits that during pendency of the suit, one Ajit Kumar Singh filed a writ application bearing C.W.J.C. No. 17749 of 2019 for removal of the encroachment from the subject land and vide order dated 03-09-2019 the District Magistrate, Siwan was directed to make inquiry into the matter and in case it was found that appropriate orders have been passed by the Circle Officer in Encroachment Case No. 5 of 2010-11 and the land in question is found to be public land, necessary steps should be taken for removal of the same. Learned counsel further submits that no inquiry was conducted by the District Magistrate, Siwan and the huts of the petitioners standing upon the subject land have been removed in the said Encroachment Case No. 5 of 2010-11 without giving any opportunity to the petitioners to file their defence.

Learned counsel for the State referring to Annexure – 6 to the writ petition i.e. an order passed on 13-11-2019 in



C.W.J.C. No. 17749 of 2019 submits that for similar grievance the petitioners had earlier filed an interlocutory application bearing I.A. No. 1 of 2019 before the this Court in C.W.J.C. No. 17749 of 2019 for impleading them as party- respondents but this Court did not allow the interlocutory application filed by the petitioners on the ground that encroachment has already been removed from the subject land as such no useful purpose would be served by impleading the interveners as party-respondents inasmuch as the same has become infructuous.

Learned counsel for the petitioner in reply submits that this Court vide its order dated 13-11-2019 has given liberty to the petitioners to raise their grievance in accordance with law.

Having heard learned counsel for the parties and upon going through the materials available on record and the previous orders passed by this Court in C.W.J.C. No. 17749 of 2019 it is evident that encroachment from the subject land has already been removed and the petitioners had filed interlocutory application before this Court for the same grievance, which was rejected on the ground that encroachment has already been removed. It appears that petitioners have approached this Court again for the same relief which cannot be granted by this Court in the facts and circumstances of the case. Since the petitioners



have already filed a Title Suit bearing Title Suit No. 497 of 2012, they may pursue the Suit pending pending before the court below in accordance with law.

With the aforesaid observation and direction, this writ petition is dismissed.

(Anil Kumar Sinha, J)

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