

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7319 of 2020

-
-
1. Kameshwar Mishra Son of Late Vednand Mishra, Resident of Village and P.O.-Noaiti, Ward no. 14 P.S.-Basanahia, District-Saharsa.
 2. Anil Mishra Son of Late Upendra Mishra Resident of Village and P.O.-Noaiti, Ward no.14, P.S.-Basanahia, District-Saharsa.
 3. Hemendra Mishra Son of Late Jay Krishna Mishra, Resident of Village and P.O.-Noaiti, Ward no.14, P.S. P.S.-Basanahia, District-Saharsa.
 4. Arun Kumar Mishra Son of Late Harinarayan Mishra, Resident of Village and P.O.-Noaiti, Ward no.14, P.S. P.S.-Basanahia, District-Saharsa.

... .. Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Secretary, Land Reforms, State of Bihar, Patna.
3. The District Collector, Saharsa,
4. The Sub-Divisional Magistrate, Saharsa.
5. The Circle Officer, Sonbarsa Block, District-Saharsa.

... .. Respondents

Appearance :

For the Petitioners	:	Mr. Vishal Vikram Rana, Advocate
For the Respondents	:	Mr. Majid Mahboob Khan, AC to AAG-2

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

6 18-02-2021 Heard Mr. Vishal Vikram Rana, learned counsel appearing on behalf of the petitioner and Mr. Majid Mahboob Khan, learned A.C. to AAG-2 for the State of Bihar.

This writ application has been filed seeking quashing of an order dated 16.06.2020, whereby the Circle Officer, Sonbarsha in the district of Saharsa, has directed to vacate the land bearing Khata No. 673, Khesra No. 2625, which is allegedly under the illegal encroachment of the petitioners. They are also seeking an order from this Court restraining the



respondents from demolishing the pucca structure of the petitioners raised on the land in question under Indira Awas Yojna.

From the averments in the writ application and the counter affidavit, which has been filed on behalf of the State of Bihar, it transpires that earlier on 02.04.2013, a notice was issued by the Circle Officer, Sonbarsha, directing the petitioners to remove illegal encroachment from the land in question. The petitioners had approached this Court by filing writ petition giving rise to C.W.J.C. No. 15257 of 2013. By the said order, the petitioners were granted liberty to file their specific reply to the notice before the Circle Officer. The Circle Officer, in turn, was directed to consider the reply of the petitioners in accordance with Section 3 of the Bihar Public Land Encroachment Act, 1956.

It transpires that in the light of this Court's aforesaid order, a final order was passed by the Circle Officer on 07.08.2013 in Encroachment Case No. 1/2013-14. An appeal has been preferred against the said order of the Circle Officer, registered as Appeal Case No. 01/2015 before the District Magistrate, Saharsa. It is the petitioners' case that the appeal has yet not been decided and again the impugned notice has been



issued for removal of the encroachment.

In the counter affidavit filed on behalf of the State of Bihar, the petitioners' claim in the writ petition that the pucca constructions have been raised under Indira Awas Yojna has been controverted on the ground of absence of proof in support thereof.

Be that as it may, the Court does not find any justification for the appeal to have been remained pending for more than five years. This writ application is accordingly disposed of with a direction to the District Magistrate, Saharsa, to dispose of the said Appeal Case No. 1 of 2015 said to have been filed on behalf of these petitioners within one month from the date of receipt/production of a copy of this order. Till disposal of appeal, the operation of the impugned notice shall remain in abeyance.

(Chakradhari Sharan Singh, J)

Pawan/-

U			
---	--	--	--

