

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.23741 of 2019**

1. Ravindra Nath @ Ravindra Paswan, S/o Karamu Paswan, Village- Bairiya, Anchal- Sampatchak, Thana- Sampatchak, Dist. - Patna- 800007 (Bihar).
2. Chandan Kumar, S/o Chandeshwar Pandit, Village and Post- Bairiya, Thana- Sona, Gopalpur, Bairiya, Patna- 800007 (Bihar).
3. Narendra Kumar, S/o Yamuna Prasad, Village and Post- Bairiya, Patna- 800007 (Bihar).
4. Shashi Kumar, S/o Ramjanm Rai, R/o Gram Bairiya, Post- Bairiya, Patna - 800007 (Bihar).
5. Rameshwar Mahto, S/o Nanhak Mahto, Gram Post- Bairia, Patna- 800007 (Bihar).
6. Vrind Paswan, S/o Lala Paswan, R/o Gram Post- Bairia, Patna- 800007 (Bihar).
7. Chitranjan Kumar, S/o Lakshman Saw, R/o Gram- Manpur Post- Bairia, Patna- 800007 (Bihar).
8. Dilip Vishwakarma, S/o Ram Prasad Vishwakarma, R/o Gram Post- Bairia, Patna- 800007 (Bihar).
9. Jayprakash Sah, S/o Lakshman Sah, R/o Gram- Gopalpur, Post- Bairia, Patna- 800007 (Bihar).
10. Akhlesh Paswan, S/o Feku Paswan, R/o Gram Post - Bairia, Thana- Gopalpur, Patna- 800007 (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary Department of Home, Government of Bihar, Old Secretariat, Patna.
2. The District Magistrate, Patna, Bihar.
3. The Sub-Divisional Officer, Gopalpur, Patna.
4. The Circle Officer (Anchal Adhikari), Gopalpur, Patna.
5. The Circle Officer, Sampatchak, Patna.

... .. Respondent/s

**Appearance :**

|                      |   |                                 |
|----------------------|---|---------------------------------|
| For the Petitioner/s | : | Mr. Puneet Siddhartha, Advocate |
|                      |   | Mr. Aryan Sinha, Advocate       |
| For the Respondent/s | : | Mr. Md.Nadim Seraj G.P-5        |
|                      |   | Mr. Shailesh Kumar, AC to GP-5. |

**CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY**  
**ORAL JUDGMENT**

**Date : 18-02-2021**

Heard learned counsel for the petitioners and learned



counsel for the State.

2. The petitioners have filed the instant application for restraining the respondent authorities from demolition of the property of the petitioners which have been marked for demolition in an arbitrary manner and to restrain them from taking any coercive steps relating to demolition during pendency of the instant case.

3. The case of the ten petitioners in brief are that each of them purchased a piece of land, details of which have been given in the writ application through registered sale deeds which have also been brought on record. The petitioners did not receive any notice as contemplated under section 3 of the Bihar Public Land Encroachment Act, however, they were surprised that their respective properties were marked by the respondents for demolition, showing them to be encroachment.

4. I.A. no. 01 of 2020 was filed by the petitioners praying therein for stay of demolition of the property of the petitioners. By order dated 29.06.2020, it was directed that the parties shall maintain status quo as on the said date.

5. A counter affidavit was filed on behalf of the respondent nos. 2 to 5 to which a rejoinder was filed on behalf of the petitioners.



6. The case of the respondents in the counter affidavit was that the matter related to widening of Sadikpur – Pavera Masaurhi Road. The land in question had been acquired in the year 1960-63 and payments against the acquired land had already been made. It was submitted that payments having been made in the year 1962-63 vide L.A Case no. 45/1962-63 and L.A. Case no. 20/1962-63, a proceeding under the Bihar Public Land Encroachment Act was initiated and notices were sent to encroachers under section 3 of the Act in Encroachment Case no. 06/2019-20. Besides the individual notices a public notice was also sent besides making announcement on loudspeaker. The encroachers/parties were given opportunity to present their case and after considering the documents and contentions of the encroachers, final orders under the Act was passed, the complete order sheet having been brought on record as Annexure-E to the counter affidavit. It is, thus, submitted that final orders in the encroachment case having been passed after following due process as prescribed under the Act, the petitioners have not made out any case for grant of relief in this case.

7. Heard the parties.

8. In reply to the specific case of the petitioners that



no notice under section 3 of the Act was served on any of them, although large number of individual notices have been brought on record as annexures to the counter affidavit of the respondents, none of the notices relate to the petitioners of the instant application. Section 3 of the Act prescribes that the Collector on receiving information from any source about encroachment upon any public land may cause to be served upon such person a notice in the prescribed form requiring him to appear. The notice prescribed has been provided in Form-1 of Appendix -1. There being no notice issued to any of the petitioners as required under the Act, the so called order passed in the encroachment case would not be effective nor sustainable so far as these petitioners are concerned.

**9.** However, in the facts and circumstances of the case, as the matter relates to widening of road, it is directed that all the petitioners shall appear before the newly added respondent no. 5 i.e. the Circle Officer, Sampatchak, District – Patna on 01.03.2021 at 11 am. The Circle Officer shall give to the petitioners a copy of the notice under section 3 of the Act, an opportunity to file their reply and proceed to decide the case in accordance with law.

**10.** The writ application stands disposed of with the



above observation and directions.

**(Partha Sarthy, J)**

Brajesh Kr./-

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