

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.147 of 2021
In
Civil Writ Jurisdiction Case No.7620 of 2020

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1. Suresh Singh @ Pd Singh Son of Nathuni Singh, R/o Vill Naya Nagr Banni, P.O. Babu Bagicha, P.S. Maheshkhunt, Dist. - Khagaria.
 2. Janardan Singh, Son of Nathuni Singh, R/o Vill Naya Nagr Banni, P.O. Babu Bagicha, P.S. Maheshkhunt, Dist. - Khagaria.
 3. Naresh Singh, Son of Nathuni Singh, R/o Vill Naya Nagr Banni, P.O. Babu Bagicha, P.S. Maheshkhunt, Dist. - Khagaria.
 4. Ganesh Singh, Son of Nathuni Singh, R/o Vill Naya Nagr Banni, P.O. Babu Bagicha, P.S. Maheshkhunt, Dist. - Khagaria.
 5. Sudhir Singh, Son of Nathuni Singh, R/o Vill Naya Nagr Banni, P.O. Babu Bagicha, P.S. Maheshkhunt, Dist. - Khagaria.

... .. Appellant/s

Versus

1. The State of Bihar thorough Principal Secretary, Deptt. of Revenue, Govt. of Bihar, Patna.
2. Sub-Divisional LokShikayat Nivaran Officer, Sub-division, Gogri, Dt Khagaria.
3. The Anchaladhikari, Gogri at P.S. and P.O. Gogri, Dt. Khagaria.
4. Sri Prabhakar Kumar, S/o Late Brijlal Singh, Vill Chanditola Banni, P.O. Babu Bagicha, P.S. Maheshkhunt, Dt. Khagaria.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Narayan Singh, Sr. Adv.

For the Respondent/s : Mr. Shailendra Dwivedy, Adv.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

4 06-07-2022

Heard Mr. Narayan Singh, the learned senior



Advocate for the appellants and Mr. Shailendra Dwivedi, the learned counsel for the State.

Claiming adverse possession over the land in question as the writ petitioners have been residing on that land since 1962, an attempt was made to forestall the process of their eviction from the said land.

The appellant/writ petitioners had come to this Court for quashing of the notice dated 17.03.2020 issued by the Circle Officer, Gogri in Encroachment Case No. 13 of 2019-20.

Mr. Singh, the learned senior Advocate has drawn the attention of this Court to the contents of the notice which, in fact, is a notice to the writ petitioners to evict the land without hearing their response.

However, we find that an encroachment case had already been initiated against the appellants / writ petitioners vide Encroachment Case No. 13 of 2019-20. In the notices, which were challenged before the learned Single Judge, there is no averment that there is an emergent necessity for a direction to evict the writ petitioners from the land or the structure erected thereupon in which they have been residing for the last several years.



The learned Single Judge rejected the plea of adverse possession of the writ petitioners on the ground that it would be required to be established before a Court of competent jurisdiction.

One of the pleas taken by the writ petitioners before the learned Single Judge was that in the year 2018, a Circle Officer, after finding that the writ petitioners were landless labourers, suggested that they be given *parcha* under the Bihar Privileged Persons Homestead Tenancy Act, 1947. However, when the matter was enquired into, a report was submitted by Revenue Karamchari on 06.10.2020, in which it was found that the writ petitioners/appellants were encroachers on the Govt. land.

The learned Single Judge has, however, has not negatived the contention of the appellants / writ petitioners but has directed them to appear before the authority and in case they are aggrieved by any decision, they could take recourse to the relief to which they are entitled under law.

However, on going through the records, we find that notice which was challenged before the learned Single Judge was bad in the eyes of law as no clear two weeks was given to them to represent their cause. In fact, the notice was an



intimation to the landholders/writ petitioners/ appellants to vacate the land in question.

We are of the view that though the learned Single Judge was absolutely justified in holding that the issue of adverse possession was required to be established before the competent court of civil jurisdiction but we partially modify the order of the learned Single Judge by which he has chosen not to interfere with such notice issued to the appellants.

The notices issued to the appellants on 17.03.2020, is hereby quashed.

The authorities shall furnish fresh notice to the appellants and shall give them 15 days time to represent their cause, whereafter a final decision shall be taken.

The authorities, before passing any order holding the appellants to be encroachers, would give reasons in support of the same.

In the event of the appellants/writ petitioners being dissatisfied with the decision of the authority, they could take recourse to the provisions contained under the Bihar Public Land Encroachment Act, 1956.

Such exercise shall be undertaken by the authorities within a period 60 days from the date of receipt/ production of



a copy of this order.

With the aforesaid modification in the order
impugned, the appeal stands allowed.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

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