

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6047 of 2020

1. Abhay Shankar Singh @ Bhola Singh son of Late Rameshwar Singh, resident of Village and P.O. Rampur Dumra, P.s. Maranchi, Anchal Mokama, Sub Division Barh, District Patna.
2. Ajay singh @ Ajey Shankar Singh @ Dinesh Prasad Singh, son of Late Rameshwar Singh, resident of Village and P.O. Rampur Dumra, P.s. Maranchi, Anchal Mokama, Sub Division Barh, District Patna.
3. Jai Shankar Singh @ Mahesh Singh, son of Late Rameshwar Singh, resident of Village and P.O. Rampur Dumra, P.s. Maranchi, Anchal Mokama, Sub Division Barh, District Patna.
4. Nirbhay Shankar Singh @ Shambhu Singh, son of Late Rameshwar Singh, resident of Village and P.O. Rampur Dumra, P.s. Maranchi, Anchal Mokama, Sub Division Barh, District Patna.
5. Moti Singh, son of Late Shri Kant Singh, resident of Village and P.O. Rampur Dumra, P.s. Maranchi, Anchal Mokama, Sub Division Barh, District Patna.
6. Sarvindra Singh, son of Late Ram Chandra Singh, resident of Village and P.O. Rampur Dumra, P.s. Maranchi, Anchal Mokama, Sub Division Barh, District Patna.
7. Navin Singh @ Navin Kumar Singh, son of Late Ram Chandra Singh, resident of Village and P.O. Rampur Dumra, P.s. Maranchi, Anchal Mokama, Sub Division Barh, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue Government of Bihar, Patna.
2. The Collector-Cum-District Magistrate, Patna.
3. The Deputy Collector, Land Reforms and Revenue, Patna.
4. The Circle Officer, Mokama, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Jitendra Kumar Verma, Advocate
For the Respondent/s	:	Mr.Rishi Raj Sinha (Sc19)
For the intervenor	:	Mr. Mithilesh Pd. Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 23-06-2022 The present writ petition has been filed for quashing
the notice dated 03.02.2020 bearing Memo no. 153 passed by



respondent no. 4, Circle Officer, Mokama, Patna, in Public Land Encroachment Case no. 2 of 2019-20 to the extent it relates to the petitioners on the ground that the notices impugned herein have been straight away passed without any duly conducted proceeding/ enquiry, without considering show cause submitted by petitioners and without there being any final order passed under ***Section 6 of the Bihar Public Land Encroachment Act, 1956***, especially when the lands in question are not public lands and are ancestral raiyati lands of the petitioners and members of their family.

The learned counsel for the petitioners has submitted that the petitioners have been residing over the aforesaid land in question along with their ancestors since more than 60-70 years and are having documents regarding valid right, title and interest of the land in question. It is further submitted that the land in question were *gairmazarua malik* land and in register II, name of the ancestor of the petitioners namely Aajo Singh, s/o Antu Singh was recorded and subsequently, there had been a family partition, whereafter different members got different properties and family partition, which took place sometime in the year 1978, was approved by the Circle Officer and subsequently, rent receipts were issued *in lieu of* payment of rent by the petitioners



and their family members. It is thus submitted that as far as the aforesaid Encroachment case no. 2 of 2019-20 is concerned, the Circle Officer, Mokama, Patna be directed to consider the aforesaid aspect of the matter as also the show cause filed by the petitioner along with relevant documents and grant an opportunity of hearing to the petitioners, whereafter the final order be passed under ***Section 6(1) of the Bihar Public Land Encroachment Act, 1956*** (hereinafter to be referred to as the Act, 1956) and till then, some protection be granted to the petitioners.

Per contra, the learned counsel for the State has submitted that it is incumbent upon the Circle Officer, Mokama, Patna to conclude the proceedings of the aforesaid Encroachment case no. 2 of 2019-20, by passing an order under ***Section 6(1) of the Act, 1956***, hence the same shall be done expeditiously.

Accordingly, the writ petition stands disposed off with a direction to the Circle Officer, Mokama, Patna to consider the aforesaid facts submitted by the learned counsel for the petitioners apart from considering the show cause filed by the petitioners before the Circle Officer, Mokama, Patna, including the documents filed therewith i.e. copy of register II/ land



possession ownership certificate etc. and grant an opportunity of hearing to the petitioners herein and then, pass the final order under ***Section 6(1) of the Act, 1956***. It is needless to state that till the final order is passed by the Circle Officer, Mokama, Patna, *status quo* existing as on today, shall be maintained.

At this juncture, the learned counsel for the petitioners submits that the claim of the petitioners for grant of damages be left open. It is directed, accordingly.

(Mohit Kumar Shah, J)

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