

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12442 of 2022

1. Ram Pukar Sharma S/o Late Ramnaresh Singh, R/o Vill.- Baraili, P.S.- Jamhaur, District- Aurangabad.
2. Ramashray Sharma, S/o Late Ramnaresh Singh, R/o Vill.- Baraili, P.S.- Jamhaur, District- Aurangabad.
3. Ram Bhajan Sharma S/o Late Ramnaresh Singh, R/o Vill. - Baraili, P.S. Jamhaur, District - Aurangabad.
4. Uday Narayan Shahir, S/o Late Ramnaresh Singh, R/o Vill. Baraili, P.S. - Jamhaur, District- Aurangabad.
5. Raj Mangal Sharma, S/o Late Ramnaresh Singh, R/o Vill. - Baraili, P.S. Jamhaur, District - Aurangabad.
6. Ugrah Narayan Kosik, S/o Late Ramnaresh Singh, R/o Vill. - Baraili, P.S. Jamhaur, District - Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Aurangabad.
3. The Additional District Magistrate, Aurangabad.
4. The Sub-Divisional Officer Aurangabad.
5. The Circle Officer Barun, Aurangabad.
6. The Police Incharge, Police Station Barun, Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Basant Kumar Choudhary, Sr. Adv. Mr. Shashi Bhushan Kumar, Adv. Mr. Arvind Kumar, Adv.
For the Respondent/s	:	Mr. Rishi Raj Sinha, SC-19 Mr. Atul Shankar, AC to SC-19

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 21-09-2022 Though, the present writ petition has been filed for quashing the entire encroachment proceedings initiated vide Encroachment Case No. 5 of 2014-15, however, it has been submitted by the learned senior counsel for the petitioners that the cause for initiation of the said proceedings is cancellation of Jamabandi of the petitioners vide order dated 10.10.2017, passed by



the learned Court of Additional Collector, Aurangabad. It is also submitted that on account of ill advice, the petitioners had challenged the aforesaid order dated 10.10.2017, before the learned Court of Sub Judge-III, Civil Court, Aurangabad in Title Suit No. 30 of 2018 and had also failed to obtain any injunction in the said case, however, it is the submission of the learned senior counsel for the petitioners that the petitioners are now ready to rectify their mistake by withdrawing the suit and filing appropriate appeal against the Jamabandi Cancellation order dated 10.10.2017. It is also submitted by the learned senior counsel appearing for the petitioners that the petitioners be also granted liberty to file appeals against the final order passed under Section 6 (1) of the Bihar Public Land Encroachment Act, 1956, in connection with Encroachment Case No. 5 of 2014-15, which is dated 01.08.2022.

The learned counsel for the respondent State has submitted that appropriate action has been taken in accordance with the provisions contained in the Bihar Public Land Encroachment Act, 1956, only after the petitioners failed to obtain injunction in the aforesaid Title Suit No. 30 of 2018.

Having regard to the facts and circumstances of the case, this Court deems it fit and proper to grant liberty to the petitioners to withdraw the aforesaid Title Suit No. 30 of 2018 and file appeal against the order dated 10.10.2017, passed by the Additional Collector, Aurangabad as also challenge the order dated 01.08.2022,



passed in Encroachment Case No. 5 of 2014-15, by the Circle Officer, Barun, Aurangabad, by filing appropriate appeal.

It is needless to state that in case the petitioners withdraw the aforesaid suit and file appeals against the Jamabandi cancellation order dated 10.10.2017 as also against the order dated 01.08.2022, passed in Encroachment Case No. 5 of 2014-15, within a period of 4 weeks from today, the said appeals shall be heard on merits, without the appellate authority being impeded by the issue of limitation and till the final order is passed, status quo existing as on today qua the land/ houses in question shall be maintained. However, in case the petitioners do not file the aforesaid two appeals within a period of four weeks from today, the protection being granted to the petitioners shall stand vacated.

The present writ petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

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