

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1043 of 2019

1. Ram Das Rai Son of Late Raghunandan Rai Resident of Village- Dariyapur, Ward No.09, P.O.- Hauspur, P.S.- Nayagaon, District- Begusarai
2. Fulena Rai Son of Baube Lal Rai Resident of Village- Dariyapur, Ward No.09, P.O.- Hauspur, P.S.- Nayagaon, District- Begusarai
3. Ram Bilash Rai Son of Ramakant Rai Resident of Village- Dariyapur, Ward No.09, P.O.- Hauspur, P.S.- Nayagaon, District- Begusarai
4. Shiv Shankar Sah Son of Budhan Sah Resident of Village- Dariyapur, Ward No.09, P.O.- Hauspur, P.S.- Nayagaon, District- Begusarai
5. Naresh Yadav Son of Late Baleshwar Yadav Resident of Village- Dariyapur, Ward No.09, P.O.- Hauspur, P.S.- Nayagaon, District- Begusarai
6. Shankar Rai Son of Late Basudeo Rai Resident of Village- Dariyapur, Ward No.09, P.O.- Hauspur, P.S.- Nayagaon, District- Begusarai
7. Bashishth Rai Son of Late Bindeshwar Rai Resident of Village- Dariyapur, Ward No.09, P.O.- Hauspur, P.S.- Nayagaon, District- Begusarai
8. Kedar Rai Son of Late Chandri Rai Resident of Village- Dariyapur, Ward No.09, P.O.- Hauspur, P.S.- Nayagaon, District- Begusarai
9. Hare Ram Rai Son of Ram Khelawan Rai Resident of Village- Dariyapur, Ward No.09, P.O.- Hauspur, P.S.- Nayagaon, District- Begusarai
10. Rajiv Kumar Yadav Son of Ramashish Yadav Resident of Village- Dariyapur, Ward No.09, P.O.- Hauspur, P.S.- Nayagaon, District- Begusarai

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner, Munger Division, Munger
3. The Collector, Begusarai
4. The Anchal Adhikari, Matihani, District- Begusarai
5. The Circle Inspector, Matihani, District- Begusarai

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Anil Kumar
For the Respondent/s : Mr.Md. Khurshid Alam

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 12-07-2022 Though the present writ petition has been
filed for quashing the encroachment case no. 6 of



2017-18, initiated by the Circle Officer, Matihani, District-Begusarai, but in view of the statement made in paragraphs no. 5, 6, 18 and 19 of the counter affidavit, filed by the Respondents No. 3 and 4, which are reproduced hereinbelow, the learned counsel for the petitioner does not wish to press the present writ petition:-

"5. That the writ petitioners invoked writ jurisdiction for quashing the order contained in Memo No. 992 dated 29.11.2018 passed by the Respondent No. 4 in encroachment case no. 6/2017-18 by which they were directed to remove the encroachment from the land in question in para no. 1 of the writ petition. However, it is relevant to mention here that this encroachment proceeding has been dropped against the writ, petitioner vide order dated 5.1.2019 in view of these petitioners are landless people and in this regard the proviso of Section 6 of the Bihar Public Land Encroachment Act provides that no action shall be taken against the landless person



under this Act.

6. That none of question of law as referred in para no. 2 of the writ petition are relevant in this matter because the encroachment proceeding vide case no. 6/17-18 has been dropped vide order dated 5.1.2019 by the respondent no. 4 in view of the proviso of Section 6 of Bihar Public Land Encroachment Act where it is mentioned that provided if any landless person encroached upto 12 1/2 dismal of public land before 10.10.1955 no action shall be taken against him under this act. Here in this case revenue karamchari reported that these persons are landless people.

18. That in reply of the statement made in para no. 14 of the writ petition, it is submitted that initially Anchal Amin reported that these petitioners were encroacher of the land in question. Later on once again Balabandi Amin namely Narayan Bhagat was appointed by the Additional Collector to measure the land in question, who measured and submitted his report and



reported that only one person has encroached the land of Sarak and who suomoto removed the encroachment. In such view of the matter the C.O. Matihani dropped this, encroachment proceeding. Later on one Shyam Rai Patel submitted a petition before the learned Commissioner against the measurement work of Narayan Bhagat, hence, land was again measured by the Amin as appointed by the Additional Collector as directed by the Divisional Commissioner. The said Amin submitted his report and stated that these petitioners encroached the land and thereafter notice vide memo no. 992 was issued to them for removal of encroachment.

19. That these petitioners appeared before the C.O. and submitted that the land in question was in their possession from last 75 years and they are landless people having no land and house except this one. The C.O., Matihani called for report from the Karamchari with regard to



submission as made by these petitioners. The Karamchari submitted his report on and reported that these petitioners are landless people. The C.O. Matihani considering the report and provision as made under Section 6 of the Act dropped the land encroachment proceeding."

Accordingly, the present writ petition stands disposed of as not pressed in view of the aforesaid statement made by the Respondent-State in the counter affidavit filed in the present case.

(Mohit Kumar Shah, J)

Ajay/-

U			
---	--	--	--

