

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4282 of 2021

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1. Dasarath Prasad, S/o Late Rameshwar Prasad, R/o Village-Basantpur, P.S. Basantpur, District-Siwan.
 2. Alakh Prasad, S/o Late Bishwanath Prasad, R/o Village-Basantpur, P.S. Basantpur, District-Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Education Department, Government of Bihar, Patna.
2. The Secretary, Education Department, Government of Bihar, Patna.
3. The Additional Chief Secretary, Education Department, Government of Bihar, Patna.
4. The Special Secretary, Education Department, Government of Bihar, Patna.
5. The District Magistrate, Siwan.
6. The Sub Divisional Magistrate, Maharajganj, Siwan.
7. The Circle Officer, Basantpur, District-Siwan.
8. The District Education Officer, Siwan.
9. The Head Master, Govt. High School, Basantpur, P.S. Basantpur, District-Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s : Ms. Vagisha Pragya Vacaknavi, Advocate
For the Respondent/s : Mr. P.K.Shahi, AG

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

- 13 08-09-2023 1. The petitioner has filed the above public interest litigation seeking removal of the encroachment on a public land which is partly occupied by a Government school.
2. There are many encroachments on the public land is the submission made.



3. A counter affidavit was directed to be filed by the Circle Officer, Basantpur District Siwan which is placed on record on 7.8.2023. The counter affidavit speaks of the encroachment cases registered in the matter. In one of the cases there is a stay obtained in a CWJC, a copy of which is produced as Annexure-A. In another there is a title suit pending, based on which the writ petition was withdrawn as evident from Annexure-B. The petitioner in CWJC no. 2000 of 2014 has also approached this Court as an intervenor. In another case SLP(C) No. 019308 of 2021 (Pahalad Prasad and other versus Dasarath Prasand and others) is filed against the Encroachment Case no. 2 of 2013-14; which is also pending.

4. In the facts noticed from the affidavit, we are of the opinion that the encroachment case should be proceeded with as expeditiously as possible. But, considering the fact that the alleged encroachers are before appropriate forums asserting their title and also challenging the manner in which proceedings are taken, there is no scope for keeping the public interest litigation pending. Even if they are rank trespassers a notice and legal proceedings should precede an eviction, which has to be in accordance with law. Considering the fact that a proceeding is pending under Bihar Public Land Encroachment Act, 1956,



we close the writ petition but cautioning the authority to proceed in accordance with law. We also notice that none of the encroachers are impleaded in the writ petition, which results in any orders passed by us, being accused as those passed behind their backs.

5. The writ petition, hence stands closed with the reservation that we have not found anything on the merits of the matter.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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