

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6633 of 2020

-
1. Rita Devi @ Rina Devi Wife of Krishna Murari Pandit resident of Kursela Basti, P.o.- Ayodhyaganj Bazar Kursela, District- Katihar
 2. Anita Devi Wife of Jwala Prasad @ Jwala Prasad Pandit resident of Kursela Basti, P.o.- Ayodhyaganj Bazar Kursela, District- Katihar

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms, Government of Bihar, Patna
2. The District Magistrate cum Collector, Katihar
3. The Circle Officer, Kursela, District- Katihar
4. The Assistant Engineer, Bihar State Electricity Board now Power Holding Company, Kursela, District- Katihar
5. The S.D.O. Bihar State Electricity Board now Power Holding Company, Kursela, District- Katihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Rajesh Kumar Pandey, Advocate
For the Respondent/s : Mr.Subash Chandra Yadav (GP15)

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

9 06-11-2023 Heard the parties.

2. This writ application has been filed for removal the encroachment which is allegedly encroached by Power house Officer, Kursela, Dist- Katihar.

3. It appears that petitioners have earlier moved before this Court in C.W.J.C No. 154 of 2020 which was heard on 24.01.2020 and after hearing the parties the application was disposed of with an observation that the Circle Officer, Kursela, Dist- Katihar while passing the final order under the provisions of Bihar Public Land Encroachment Act, 1956 shall consider the



stand of the petitioners in their show cause replies.

4. It is the case of the petitioners that they are privileged tenants and lands were settled in their favour under Bihar Privileged Persons Homestead Tenancy Act, 1947 and ignoring the said settlement under the provisions of the Act, Encroachment Case No. 01 of 2019-20 dated 06.08.2019 has been made and notices have been issued to the petitioners.

5. It is further case of the petitioners that after disposal of the aforesaid writ application, the petitioners filed a representation dated 04.02.2020 to the Ancahl Adhikari, Kursela, Dist- Katihar to remove the encroachment which has been made on the road of the petitioners.

6. It is further submitted that Encroachment Case No. 01 of 2019-20 was initiated on 20.06.2019 and petitioners were issued show cause and relevant papers were demanded and the *Amin* was directed to measure the Plots in question. A report was obtained from the *Amin* according to which the aforesaid land has been acquired for Electric Department and Surendra Prasad Agarwal & others have encroached Plot No. 6514 measuring 2.06 Acre. The encroachers were directed to vacate the land. Proper notices were served. They appeared and submitted sale deeds as well as *Basgit Purchas* and as such there



is no merit in this case and it deserves to be quashed.

7. On the other hand, respondent nos. 4 and 5 submits that sub-power station at Kursaila under Katihar district has been in operation since 1990 and occupies a total 3.00 Acre of land and the details of which are noted below.

1. Thana No.	Khata No.	Khesra No.	Rakwa
291	395	6514 6513 6516	0.98 Acre

8. During construction of boundary wall at Korha, Falka, Kusaila it came to the light that a temporary structure (Kacha House of the petitioner) was within the boundary wall of sub-power station. Pursuant to the application filed by respondent no. 4 and 5 encroaching proceeding was initiated, notices were issued and thereafter petitioners were directed to vacate the land in question and as such the petition is devoid of merit and it is a fit case to be rejected.

9. Considering the rival submissions of the parties and on perusal of the materials available on record, I find that in this case, encroachment proceeding has been initiated, notices were issued to the parties and after considering the notices, petitioners were directed to vacate the land. In that view of the matter, if the petitioners have got any grievance against the order of the Circle Officer, Kursela, Dist- Katihar, petitioners have got statutory



alternative remedy of Appeal under Section 11 of the Bihar Public Land Encroachment Act, 1956 which is as follows:-

“11. Appeals. (1) From every order passed under Sections 6, 7 or 8 an appeal shall lie-

i) if such an order is passed by any officer other than the Collector of the district to the Collector of the district or to any officer specially empowered by the State Government, by notification in the official Gazette;

(ii) If such order is passed by the Collector of the district, to the Commissioner of the Division.

(2) An appeal under this section shall be preferred within 30 days of the passing of the order appealed against;

Provided that an appeal may be admitted after the said period when the appellate authority is satisfied that the appellant had sufficient cause for not preferring the appeal within such period.”

10. In the above view of matter, this Court is not inclined to interfere in its extra ordinary writ jurisdiction.

11. The writ application stand dismissed.

12. Needless to say, the petitioners shall be at liberty to seek remedy before appropriate forum as may be available to them in accordance with law.

13. It is made clear that if the petitioners approach the appropriate forum, the concerned authorities/forum would have



regard to this present proceeding being pursued by the petitioners, while considering any issue relating to condonation of delay, if applicable.

(Prabhat Kumar Singh, J)

Harsh/

U			
---	--	--	--

