

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9349 of 2023

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1. Ram Kewal Yadav S/o Ram Bhajan Yadav Resident of Simarahua, P.S.- Bandeya, District- Aurangabad, Bihar-824116.
 2. Dudheshwar Yadav S/o Tulsi Yadav Resident of Simarahua, P.S.- Bandeya, District- Aurangabad, Bihar-824116.
 3. Chhotan Yadav S/o Devcharan Yadav Resident of Simarahua, P.S.- Bandeya, District- Aurangabad, Bihar-824116.
 4. Naresh Paswan S/o Chandradeo Paswan Resident of Simarahua, P.S.- Bandeya, District- Aurangabad, Bihar-824116.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Land Revenue and Reforms Department, Govt. of Bihar, Patna.
2. The District Magistrate, District- Aurangabad.
3. The DCLR, Aurangabad, District- Aurangabad.
4. The Sub-Divisional Officer, Aurangabad.
5. The Circle Officer, Goh, Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ram Babu, Advocate
For the Respondent/s : Mr.Sajid Salim Khan (SC-25)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 24-07-2023 1. The present writ petition has been filed seeking the following reliefs:-

“1.(i) For issuance of a writ in the nature of a writ of Certiorari quashing Letter dated 26.06.2023 of CO-Goh (Respondent No-8) whereby the respondent No-5 has directed these petitioners to vacate their dwelling houses by 05.07.2023



falling which the dwelling houses of the petitioners shall be demolished.

(ii) Further for issuance of Mandamus to the respondent authorities especially the respondent No-5 not to take any coercive action of demolition as the encroachment proceeding in Encroachment Case No-8/2019-2020 not conducted in accordance with law as neither the alleged Land under encroachment been measured in presence of these petitioners nor Khata/Khasra as per notice under Land Encroachment Act matching with actual Khata/Khesra of these petitioners and as such even exact location of encroachment not established and as such any demolition shall cause irreparable damage to these petitioners

(iii) For Holding that these petitioners and their families residing in the alleged dwelling houses for last 40-50 years and their peaceful possession cannot be disturbed on the basis of a summary proceeding and the state has



authority only in accordance with law and not otherwise.

(iv) For Holding that these petitioners are raiyats of these lands and are continuously paying Land Revenue to Govt. of Bihar and as such any coercive action in haste shall frustrate the ends of justice and shall be in violation of law and natural justice.”

2. The learned counsel for the respondent-State has referred to the counter affidavit filed in the present case to submit that the final order under Section 6(1) of the Bihar Public Land Encroachment Act, 1956 has already been passed by the Circle Officer, Goh on 04.12.2019.

3. In view of the aforesaid, the learned counsel for the petitioners seeks liberty on behalf of the petitioners to file appropriate appeal challenging the aforesaid order dated 04.12.2019. Liberty so sought is granted.

4. It is needless to state that in case appropriate appeal is filed within a period of four weeks from today, the appellate authority shall



consider the same on merits without being impeded by the issue of limitation and shall pass a reasoned and a speaking order, in accordance with law, forthwith.

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

(Mohit Kumar Shah, J)

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