

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10208 of 2023

1. Arjun Saw @ Arjun Prasad Gupta Son of Late Khelawan Saw Resident of Village-Mirchaiganj, Ahiyachak P.S.-Katari, Sarai, Distt.-Nalanda (Bihar)
2. Satish Prasad @ Satish Saw Son of Ram Sharan Saw Resident of Village-Mirchaiganj, Ahiyachak P.S.-Katari, Sarai, Distt.-Nalanda (Bihar)
3. Avinash Kumar @ Avinash Saw Son of Ram Sharan Saw Resident of Village-Mirchaiganj, Ahiyachak P.S.-Katari, Sarai, Distt.-Nalanda (Bihar)

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Nalanda
2. The Collector of the District (DM), Nalanda.
3. The Sub-Divisional Officer, Rajgir, Nalanda.
4. The Circle officer (C.O.) Katari Sarai, Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Shashi Nath Jha, Advocate
For the Respondent/s : Mr.Raj Kishore Roy (Gp 18)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 26-07-2023 The present writ petition has been filed seeking the following reliefs:-

“1.(i) Quashing/setting aside the impugned order dt. 06.07.2023 (Annx-8) passed by the Resp. no.-4 U/S 6(1)(e) of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'Act') in Land Encroachment case No.-01 of 2016-17 whereby and whereunder he has directed the petitioners to remove the alleged encroachment from the Lands in question.

(ii) Directing the respondent-authorities to drop the said Encroachment proceeding No.- 01 of 2016-17, so far as it is related to the petitioners,



as the same has illegally been initiated against the raiyati lands of the petitioners, and not to demolish the residential & commercial premises of the petitioners standing over the same.

(iii) Holding and declaring that the lands in question are not a public land, but out and out, a raiyati & personal lands of the petitioners, and there is no encroachment at all on the said lands by the petitioners.

(iv) Holding and declaring that without hearing/deciding the objection of the petitioners the Learned Resp.no.4 had no jurisdiction to pass the impugned order as contained in Annx-8 hereto for eviction of the petitioners.

(v) Restraining the respondents- authorities not to dispossess and to demolish the house and shops of petitioners from the lands in question till pendency of this writ application before this Hon'ble court. Moreover the red mark for demolition has already been given by the authorities on the residential house/ shops of the petitioners.”

At the outset, the learned counsel for the petitioners seeks liberty on behalf of the petitioners to challenge the final order, passed by the Circle Officer, Katari Sarai, Nalanda, in connection with Encroachment Case No.01 of 2016-17, under Section 6(1) of the Bihar Public Land Encroachment Act, 1956,



by filing appropriate appeal. Liberty so sought is granted.

It is needless to state that in case appropriate appeal is filed by the petitioners, within a period of two weeks from today, the appellate authority shall consider the same, in accordance with law and pass a reasoned and a speaking order, forthwith and till then status quo, existing as on today qua the land/houses of the petitioners in question shall be maintained.

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

(Mohit Kumar Shah, J)

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