

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11045 of 2023

1. Parmeshwar Gop Son of Late Kamal Gop Resident of Village-Dohra, P.O.-Dohra, P.S.-Nardiganj, District-Nawada, at Presently residing at Gautam Hotal, Jula Per near Wishshanti Stup, P.O. and P.S. Rajgir, Dist. Nalanda.
2. Ajay Kumar Son of Late Ramashish Yadav Resident of Village-Dohra, P.O.-Dohra, P.S.-Nardiganj, District-Nawada, at Presently residing at Gautam Hotal, Jula Per near Wishshanti Stup, P.O. and P.S. Rajgir, Dist. Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Revenue and Land Reforms, Government of Bihar, Patna.
2. The Collector-Cum-District Magistrate, Nalanda at Bihar Sharif.
3. The District Forest Officer, Nalanda.
4. The District Land Acquisition Officer Nalanda at Bihar Sharif.
5. The Assistant Conservator Forest Officer (ACF) Rajgir
6. The Forest Range Officer East Forest Range Rajgir, Nalanda.
7. The Additional District Magistrate, Rajgir Nalanda.
8. The Sub Divisional Officer, Rajgir, Nalanda.
9. The Deputy Collector Land Reforms, Rajgir Nalanda.
10. The Superintendent of Police Nalanda, at Bihar Sharif.
11. The Circle Officer, Rajgir, Nalanda.
12. The Officer In-charge, Police Station, Rajgir, Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar Pandey, Advocate
For the Respondent/s	:	Mr. Sajid Salim Khan, SC-25
For the State	:	Mr. Arif Daula Siddique, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 02-11-2023 Heard Mr. Sanjay Kumar Pandey, learned counsel appearing on behalf of the petitioners and Mr. Arif Daula Siddique, learned counsel for the State.

2. The petitioners on being aggrieved by the notice as contained in letter no. 77, dated 20.05.2023, passed by the



Forest Range Officer, East Forest Range, Rajgir, Nalanda, whereby they have been directed to vacate the premises within a period of seven days, preferred the present writ application seeking quashing of the same.

3. It is the case of the petitioners that the land, in question, in connection to which notice was issued, was purchased by the father of the petitioner No.1, namely Parmeshwar Gop, way back, in the year 1940, to be more specific on 19.11.1940, from one Syad Md. Wakar Ali Khan and Manjoor Ali Khan bearing Tauzi no. 12569, Thana no. 485, C.S. Khata no. 699, Khesra no. 7743, appertaining to an area of 25 decimal.

4. The land in question, was duly purchased as noted hereinabove, certain construction over the land has been made and a hotel has been running over that since long. It is further submitted that after the death of the father of the petitioner no.1, the land has also been mutated in the name of the petitioner no. 1 and he has been continuously paying rent to the State Government till date. The revenue receipt in favour of the petitioner no. 1 has also been brought on record and marked as Annexure 2. Further submission has been made that with respect to the land in question, jamabandi was also created in the name



of father of the petitioner no. 1 and till now the same is running without there being any interference by any authority. However, all on a sudden the impugned notice came to be issued by the Forest Range Officer, East Forest Range, Rajgir, Nalanda.

5. He further drew the attention of this Court to the impugned notice and with reference thereto he submits that prima facie, from the notice it appears that without any cause to be shown or any opportunity to the petitioners to place their case/explanation, a direction has been given to remove the alleged permanent/temporary structure constructed over the land in question. He submits that the impugned order is per-se illegal and arbitrary as the person(s) whose right is/are to be affected or infringed, has not been given any show cause or opportunity to place his case.

6. On the other hand, learned counsel for the State, while refuting the contention of the petitioners, has submitted that the petitioners has still the opportunity to place his case before the Forest Range Officer who has issued the notice.

7. Regard being had to the submissions made on behalf of the parties, this Court, prima facie, finds merit in the submission of the petitioners, that the impugned notice is nothing but a direction to remove the alleged encroachment,



without any finding or proof of encroachment, thus not in consonance with the provisions of any law.

8. Needless to observe that any order causing prejudice to the right(s) and entitlement of a person, must be in conformity with the principles of natural justice and fair play. Considering the afore-noted facts, without going into the merit of the case and right of the parties, this Court deems it appropriate to direct the petitioners to file a detailed representation before the District Forest (Settlement) Officer, Nalanda alongwith all the documents/ papers in support of their claim.

9. It is further observed that if the petitioners file such a representation within a period of four weeks from today, the same shall be considered and disposed off by a reasoned order, preferably within a further period of eight weeks. It is also to be noted that the respondent no. 3 shall be under obligation to consider the documents/papers relating to the land in question filed on behalf of the petitioners, before passing the final order.

10. Till the final decision is taken by the District Forest (Settlement) Officer, Nalanda, the impugned notice as contained in letter no. 77 dated 20.05.2023 shall remain in abeyance.



11. The present writ application stands disposed off
with the aforesaid observations.

(Harish Kumar, J)

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