

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11191 of 2023

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1. Anil Pandit Son of Rajkumar Pandit, resident of Ahiyachak, P.S. - Katari Sarai, Distt. - Nalanda (Bihar)
 2. Rakesh Kumar @ Rakesh Prasad, Son of Yadu Prasad, resident of Mahawat, Ward No. - 16, P.S.- Bewan, Distt. - Shaikhpora (Bihar)
 3. Hriday Dev Garay @ Hriday Garay, son of Brahm Dev Garay, resident of Lal Bigha, Parbati, P.S. - Lal Bigha, Kasichak, Distt. - Nawada (Bihar).
 4. Shailendra Prasad Sinha, son of Bhatu Garain, resident of Lal Bigha, Parbati, P.S.- Lal Bigha, Distt. - Nawada (Bihar).
 5. Deepak Kumar, Son of Shyam Kishore Singh, resident of village- Lal Bigha, Bazidpur, P.S. - Lal Bigha, Distt. - Nawada (Bihar).
 6. Dhananjay Kumar @ Dhananjay Garain, son of Kishori Garain, resident of Lal Bigha, P.S.- Lal Bigha, Bazidpur, Distt. - Nawada (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.Kumar Malendu, Adv.
For the Respondent/s : Mr.Raj Kishore Roy (GP18)

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 02-12-2023 Heard the parties.

2. This application has been filed for setting aside the
notices dated 20.05.2023 issued by the Circle officer, Katari
Sarai, Nalanda in Land Encroachment Case No. 01 of 2016-17



by which the Circle Officer has directed the petitioners to remove the alleged encroachment from the land in question.

3. The contention of the petitioners is that without hearing the petitioners, their houses have been marked pursuant to the notices issued by the Circle officer, Katari Sarai, Nalanda in Land Encroachment Case No. 01 of 2016-17 under Section 6(2) of the Bihar Public Land Encroachment Act, 1956. He further submits that no encroachment can be removed without issuing notice and without hearing the parties. The petitioners should be heard by the the Circle officer, Katari Sarai, Nalanda and if he finds any encroachment then only he will proceed further in accordance with law.

4. While considering the objection of the parties, the Circle officer, Katari Sarai, Nalanda has to consider the submissions of the petitioners that petitioners are the owner of the land in question and there is *jamabandi* in their names since forty years and the same cannot be declared to an encroachment without approaching the Civil Court for cancellation of *jamabandi* in light of judgment of this Court in ***Nathuni Singh Vs. State of Bihar in CWJC No. 16985 of 2018.***

5. In these circumstances, this application is allowed. The notices dated 20.05.2023 issued by the Circle officer, Katari



Sarai, Nalanda in Land Encroachment Case No. 01 of 2016-17 are hereby quashed. It is directed that no demolition shall be carried out without deciding aforesaid issues by the respondent authorities.

6. With the aforesaid observation and direction, this application is disposed of.

(Sandeep Kumar, J)

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