

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11269 of 2023

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1. Umesh Mandal Son of Chedi Mandal @ Chedi Prasad Mandal, Resident of Village- Malti, P.O.- Orhara, P.S.- Rajoun, District- Banka.
 2. Suresh Mandal Son of Chedi Mandal @ Chedi Prasad Mandal, Resident of Village- Malti, P.O.- Orhara, P.S.- Rajoun, District- Banka.
 3. Upendra Mandal @ Upendra Panjiyara Son of Bhujio Mandal, Resident of Village- Malti, P.O.- Orhara, P.S.- Rajoun, District- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Banka.
2. District Magistrate, Banka.
3. The Circle Officer, Rajoun, District- Banka.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Brij Nandad Prasad, Advocate
For the Respondent/s : Mr.Sajid Salim Khan (SC 25)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 12-09-2023

1. The present petition has been filed seeking the following reliefs :-

“(i) To issue an appropriate writ preferably in the nature of certiorari for setting aside notice dated 15.07.2023 issued in Encroachment No. 13/2023-24 by the Circle Officer, Rajoun, Banka whereby and where under petitioners have been directed to remove alleged encroachment over plot No. 634 and 640 situated in Thana No. 594, village-Malti, District-Banka.

(ii) To issue an appropriate writ preferably in



the nature of mandamus Commanding upon the respondents and upon production of the same, to set aside the said order holding it to have been passed without considering the objection raised by the petitioners.

(iii) To hold and declare that the land appertaining to khata no. 61 and 82, Thana No. 594, Plot no. 639 and 641 situated in Mauza- Malti, P.S Rajoun, District-Banka is the khatiyani land of the petitioners over which they have constructed their respective residential houses and are residing there with their family members since time immemorial. “

2. At the outset, the learned counsel for the respondent- State has referred to the order dated 15.07.2023, passed by the Circle Officer, Rajoun, Banka, in connection with Encroachment case no. 13 of 2023-24 to submit that barring 13 persons, all others have been declared encroachers, however, this Court does not find that the said order has taken into consideration the objections filed by the petitioners. Nonetheless, it is submitted by the learned counsel appearing for the respondent- State that upon objection being raised by the petitioners and others, a Five Member Committee was constituted by the Collector, Banka by an order dated



05.08.2023 for enquiring into the matter and conducting measurement, hence the final order under Section 6(1) of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as “the Act, 1956”) is yet to be passed with regard to the petitioners and other similarly situated persons.

3. The learned counsel for the petitioners submits that if that be the case, the Circle Officer, Rajoun, District- Banka may be directed to supply a copy of the enquiry report submitted/ to be submitted by the Five Members Committee, constituted for the purpose of fresh measurement and enquiring into the matter so that the petitioners can respond to the same and thereafter, the Circle Officer may take a final call by passing the final order under Section 6(1) of the Act, 1956. It is directed accordingly.

4. Having regard to the facts and circumstances of the case, I deem it fit and appropriate to dispose off the present writ petition with a direction to the Circle Officer, Rajoun, District- Banka to forthwith supply a copy of the enquiry report, as aforesaid, to the petitioners and in case, the same is yet to be submitted by the enquiry committee then the same be supplied to the petitioners, immediately upon its submission by the enquiry committee, whereafter, adequate opportunity shall be granted to the petitioners to file objections thereto, if so required, whereafter the Circle



Officer, Rajoun, Banka shall pass the final order under Section 6(1) of the Act, 1956 and till then, *status quo* existing as on today *qua* the land/ house of the petitioners in question shall be maintained.

5. It is needless to state that the aforesaid proceedings of the Encroachment case no. 13 of 2023-24 should be concluded within a period of six weeks from today.

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

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.09.2023
Transmission Date	NA

