

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11559 of 2023

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1. Radha Krishna Sharma Son of Sukhdeo Mistri, Resident of Mohalla- Bihari Road, Hilsa, P.S.-Hilsa, District-Nalnada.
 2. Dayanand Pandit Son of Late Dahu Pandit, Resident of Mohalla- Bihari Road, Hilsa, P.S.-Hilsa, District-Nalnada.
 3. Usha Devi Son of Hira Lal Verma, Resident of Mohalla- Bihari Road, Hilsa, P.S.-Hilsa, District-Nalanda.
 4. Radhe Shyam Prasad Son of late Nanhku Sahu, Resident of Mohalla- Bihari Road, Hilsa, P.S.-Hilsa, District-Nalanda.
 5. Vishwakarma Sharma Son of Srichand Mistri, Resident of Mohalla- Bihari Road, Hilsa, P.S.-Hilsa, District-Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, Nalanda, Biharsharif.
3. The Sub-Divisional Officer, Hilsa, District-Nalanda, Biharsharif.
4. The District Board (Zila Parishad), Hilsa, P.S.- Hilsa, District-Nalanda, Biharsharif.
5. The Circle Officer, Hilsa, District-Nalanda, Biharsharif.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Vinay Mistry, Advocate
For the Respondent/s : Mr.Abbas Haider (SC 6)

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) For issuance of a writ in the nature of Certiorari for quashing of the Notice dated 18.07.2023 issued by the Circle Officer, Hilsa, Nalanda under the provisions of Bihar Public land Encroachment Act, 1956



in Encroachment case no. 5 of 2023-24 whereby the petitioners have been directed to remove the encroachment before 28.07.2023 failing which the encroachment shall be removed by Police Force on 28.07.2023 as the Circle Officer, Hilsa has issued the aforesaid notice for removal of the encroachment without passing final order under Section 6(1) of the Bihar Public Land Encroachment Act, 1956.

ii) For issuance of writ in the nature mandamus directing the Respondent no. 5- Circle Officer, Hilsa to hold proper enquiry and measurement whether the land in question belongs to Zila Parishad, Hilsa, Nalanda in the facts and circumstances of the case.

iii) For issuance of writ in the nature of mandamus directing the Respondent No.5 not to remove the residential house of the petitioners situated over the land appertaining to Thana No.177, Khata No. 569, Khesra No. 1325 and 1326 situated at Mauza- Hilsa within the District of Nalanda since last 40-30-20 years till such time the final order under Section 6(1) of the Bihar Public Encroachment Act, 1956 is passed by the Circle Officer, Hilsa and the same is approved by the Hon'ble Superior



Court in the facts and circumstances of the case. “

2. At the outset, the learned counsel for the respondent- State seeks to file a counter affidavit, which is taken on record, wherein it has been stated that the final order under Section 6(1) of the Bihar Public Land Encroachment Act, 1956 (hereinafter to be referred as “the Act, 1956”) has been passed by the Circle Officer, Hilsa, Nalanda on 24.06.2023, in connection with Encroachment case no. 5 of 2023-24, hence, in case the petitioners are aggrieved, they can challenge the same under Section 11 of the Act, 1956.

3. In view of the aforesaid, the learned counsel for the petitioners seeks liberty on behalf of the petitioners to challenge the aforesaid order dated 24.06.2023, passed by the Circle Officer, Hilsa, Nalanda, by filing appropriate appeal, however, seeks some protection during the interregnum period. Liberty so sought, is granted.

4. It is needless to state that for a period of four weeks from today, *status quo* existing as on today *qua* the land/ house of the petitioners in question, shall be maintained in order to enable the petitioners to file appropriate appeal along with a



petition for grant of interim relief.

5. 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	12.09.2023
Transmission Date	NA

