

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7454 of 2018

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1. Jaidev Yadav Son of Late Kunnu Mahto, Resident of Village- Asarhua, P.S.- Sono Charka Pattar, District- Jamui.
 2. Suresh Yadav, Son of Late Kunnu Mahto, Resident of Village- Asarhua, P.S.- Sono Charka Pattar, District- Jamui.
 3. Diwakar Yadav, Son of Late Kunnu Mahto, Resident of Village- Asarhua, P.S.- Sono Charka Pattar, District- Jamui.
 4. Darogi Yadav, Son of Late Kunnu Mahto, Resident of Village- Asarhua, P.S.- Sono Charka Pattar, District- Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Jamui
2. The Lane Revenue Deputy Commissioner, Jamui.
3. The Circle Officer, Circle- Sono, District- Jamui.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sourendra Pandey, Adv.
For the Respondent/s : Mr.Md.Khurshid Alam, AAG-12

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 31-08-2024

1. The present writ petition has been filed seeking the following relief(s):-

“1. That this application is for issuance of appropriate writ, rule, direction commanding upon the respondent authorities to show-cause as to why the order dated 13.12.2017, passed by the Learned District Magistrate, Jamui, in Encroachment Appeal No. 01/2017, be not quashed and as to why the notice issued by the Circle Officer, Sono under the Bihar Public Land Encroachment Act, 1956, initiating Encroachment



Case No. 02-2011-12 be not quashed.”

2. At the outset, the learned counsel for the petitioners submits that the Encroachment Appeal Case No.1 of 2017, filed by the petitioners, has been dismissed only on ground of the petitioners being not present on one day i.e. on 13.12.2017, by an order dated 13.12.2017, passed by the Ld. Court of District Magistrate-cum-Collector, Jamui, hence it is submitted that since the legal right of the petitioners qua the property in question, is being infringed, a sympathetic view be taken and the matter be remanded back to the Appellate Authority.

3. Per contra, the learned counsel for the respondent-State submits that only since the petitioners had lost interest in the appeal and nobody was appearing before the Ld. Court of District Magistrate-cum-Collector, Jamui, the appeal of the petitioners has been dismissed, by the impugned order dated 13.12.2017, however, in case this Court remands the matter back to the Appellate Authority, the appeal filed by the petitioners would be heard on merits.

4. Having regard to the facts and circumstances of the case, considering the equities prevailing in the present case as also in the interest of justice, I deem it fit and proper to quash the order dated 13.12.2017, passed by the Ld. Court of District



Magistrate-cum-Collector, Jamui, in Encroachment Appeal Case No.1 of 2017 and remand the matter back to the Ld. District Magistrate-cum-Collector, Jamui, for adjudicating upon the appeal afresh, after hearing the aforesaid parties.

5. The writ petition stands allowed to the aforesaid extent.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.09.2024
Transmission Date	NA

