

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7690 of 2024

1. Shri Bhagwan Jee Jha S/o- Late Shri Yugal Kishore Jha R/o. Village and Post Office- Chunni, P.S. and Block- Madhepur, District- Madhubani, (Bihar).
2. Shri Narender Kumar Jha @ Nunu Jha, S/o. Late Shri Yugal Kishore Jha, Permanent Resident of Village and Post Office - Chunni, P.S. and Block- Madhepur, District- Madhubani (Bihar), Presently residing at D-194, Dabua Colony, New Industrial Town, (NIT), Faridabad (Haryana).
3. Shri Parma Nand Jha, Late Shri Anant Jha, R/o. Village and Post Office - Chunni, P.S. and Block- Madhepur, District- Madhubani (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Revenue, Govt. of Bihar Patna.
2. The Collector -cum- District Magistrate, Madhubani, District- Madhubani (Bihar).
3. The Sub-Divisional Officer, Jhanjharpur, Distt.- Madhubani (Bihar).
4. The Circle Officer- Madhepur, Distt. - Madhubani (Bihar).
5. The S.H.O., P.S.- Madhepur, Distt.- Madhubani (Bihar).
6. Sushil Kumar Jha, S/o Late Shri Ramakant Jha R/o- Village Chunni, Block and P.S. Madhepur, Distt.- Madhubani (Bihar), Presently R/o. Ashiyana Nagar, P.O.- Ashiyana Nagar, P.S.- Rajeev Nagar, Distt.- Patna- 800025.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Prashant Prakash, Advocate
For the State	:	Mr.Rajeshwar Singh, GA-10
		Mr.Jitendra Kumar, AC to GA-10
For Private Respondent	:	Mr.Nitesh Kr. Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

- 3 27-08-2024 1. The present writ petition has been filed seeking the following relief(s):-

“1(i) For issuance of writ/order/direction in the nature of a writ of certiorari for setting aside the impugned notice dated 29.12.2023, issued by (Annexure-8 series) the Circle Officer, Madhepur i.e. the respondent No.4



herein declaring the same as illegal and null and void.

(ii) For issuance of writ/order/direction in the nature of a writ of mandamus directing the respondent No. 4 to decide the Encroachment case No. 4/2016-17 afresh in accordance with the provisions contained in the Bihar Public Land Encroachment Act, 1956 and by following the principles of natural justice and the well settled principles of law.

(iii) For issuance of writ order or direction in the nature of a writ of mandamus directing the respondents No.2 to 5 not to take any action against the petitioners on the basis of the impugned notice dated 29.12.2023.

(iv) Direct the concerned officer to initiate an enquiry as to how and why the Respondent No.4 issued the impugned notice i.e. 29.12.2023 to the petitioners without granting an opportunity to them of being heard and why the order was not passed under section 6 (1) of the Bihar Public Land Encroachment Act, 1956 in the Encroachment Case No. 4/2016-17.

(v) For declaring the action of the respondents as illegal and not sustainable in the eyes of law.

(vi) For Staying the operation/execution of the impugned notice dated 29.12.2023 of the Circle Officer, Madhepur during the pendency of the writ application.”



2. At the outset, the learned counsel for the petitioners seeks liberty on behalf of the petitioners to challenge the order dated 26.12.2023, passed by the Circle Officer, Madhepura, in connection with Encroachment Case No.04 of 2016-17, by filing appropriate appeal, however, seeks permission to file appeal on the basis of the photocopy, annexed as Annexure-F to the counter affidavit, filed in the present case, as also seeks liberty on behalf of the petitioners to raise all the points, which have been raised in the present writ petition, in the appeal to be filed by the petitioners. Liberty so sought is granted.

3. It is needless to state that the petitioners shall be at liberty to file appropriate appeal under Section 11 of the Bihar Public Land Encroachment Act, 1956, annexing the photocopy of the aforesaid order dated 26.12.2023, as also shall be entitled to raise all the issues raised in the present writ petition in the aforesaid appeal, to be filed by the petitioners. It is needless to state that in case the petitioners file appropriate appeals, within a period of four weeks from today, the appellate authority shall consider the same on merits and pass a reasoned and a speaking order, forthwith.

4. In order to enable the petitioners to file appeal and obtain interim orders, I deem it fit and proper to direct that for a



period of six weeks from today, status quo existing as on today, qua the land/houses of the petitioners in question shall be maintained.

5. The present writ petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

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