

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10133 of 2023

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1. Sunil Prasad @ Sunil Kumar @ Sushil Kumar Son of Late Sarjug Prasad, Resident of Village Pavai, P.S.- Parwalpur, District- Nalanda.
 2. Raghuraj Prasad Son of Late Sarjug Prasad, Resident of Village Pavai, P.S.- Parwalpur, District- Nalanda.
 3. Jag Mohan Prasad @ Jag Mohan Vir Son of Late Sarjug Prasad, Resident of Village Pavai, P.S.- Parwalpur, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
3. The Collector, Nalanda.
4. The Circle Officer, Parwalpur, District- Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Lovekush Kumar
For the Respondent/s : Mr.Raj Kishore Roy (Gp 18)

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

5 23-01-2024 The affidavit filed by the Circle Officer, Parwalpur, Nalanda is taken on record.

2. I have examined the records of the case.

3. In the present case, the contention of the learned counsel for the petitioners is that without passing any order under Section 6(1) of the Bihar Public Land Encroachment Act, the house of the petitioners has been demolished.

4. I have heard learned counsel for the State and the Circle Officer, Parwalpur, Nalanda.



5. The Circle Officer, Nalanda has produced the entire ordersheet. From perusal of the the ordersheets, it appears that a notice was issued to the petitioners and the same has been properly served upon the petitioners and thereafter, the final order was passed on 15.07.2013 when no show cause was filed by the petitioner as they had chosen not to appear in the proceedings. Thereafter, this Court has passed an order in C.W.J.C. No. 17107 of 2015 on 07.04.2023. The order reads as follows:-

“The respondent- State has filed a supplementary counter affidavit, duly sworn by the District Magistrate, Nalanda at Biharsharif, which is taken on record. In paragraph no. 6 of the said affidavit, it has been stated that charges in Prapatra ‘Ka’ have been sent to the Special Secretary, Revenue and Land Reforms Department, Bihar, Patna for initiating departmental proceedings against 05 persons, who were posted during the interregnum period as Circle Officer, Parwalpur.

The respondent- State is granted a week’s time to inform this Court regarding actual initiation of departmental proceedings against all the erring officials.

As far as removal of encroachment in question is concerned, it has been stated that time has been given to the encroachers to remove encroachment by 13.04.2023, hence, I deem it fit and appropriate to list this matter on 17.04.2023 so that this Court can be apprised about the latest position prevailing at the place in question.

List on 17.04.2023 at 10.30 am.”

6. Thereafter, the petitioners were again served with a notice by the Circle Officer. Parwalpur, which has been received by the petitioner No. 3.

7. It is an admitted position that the petitioners are



brothers and they are staying jointly as the present writ petition has also been filed by them jointly.

8. Even after receipt of notice, the petitioners did not file any application before the Circle Officer, Parwalpur, Nalanda. Thereafter, the Circle Officer proceeded to demolish the house of the petitioners as the house was situated on the land of *Paine*.

9. I do not find any illegality in the proceedings and the contention of the petitioners that the house has been demolished illegally has no legs to stand.

10. For arguing that the action of the Circle Officer, Parwalpur, Nalanda is illegal, the petitioners have relied upon the report of the Sub-divisional Magistrate and the District Magistrate. I have gone through the aforesaid reports and I find that they have wrongly stated that no order under Section 6(1) of the Bihar Public Land Encroachment Act was passed whereas it is apparent from the records that the same was passed on 07.03.2013.

11. In view of the above, this application is dismissed.

12. The petitioners have all the liberty to challenge the original order under Section 16(i) of the Bihar Public Land



Encroachment Act.

13. Since the case is being disposed of, there is no requirement of the Circle Officer, Parwalpur,Nalanda to appear in this Court.

(Sandeep Kumar, J)

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