

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12013 of 2018

1. Sarbottam Kumar Rajhans Son of Late Suprasidh Rajhans
2. Chandan Rajhans Son of Late Prakash Rajhans
Both residents of Village - Tarapur, P.O. and P.S. Tarapur, District - Munger.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Collector, Munger
2. The Circle Officer, Tarapur, Munger.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. J. S. Arora, Sr. Advocate Mr. Sudhir Kumar Bijpuria, Advocate Mr. Anil Kumar Gupta, Advocate
For the State	:	Mr. Navnit Kumar, AC to GP-18

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

- 5 05-12-2024 Though the present writ petition has been filed for quashing the notice dated 18.06.2018, issued by the Circle Officer, Tarapur, Munger, i.e. the respondent no.2, in connection with Encroachment Case No.10 of 2018-19, however, at the outset, the learned Senior Counsel for the petitioners submits that the respondent no.2 has not issued any notice, much less given any opportunity to the petitioners to put forth their defence in the aforesaid Encroachment Case No.10 of 2018-19 and has instead straightway issued notice under Section 6(2) of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as “the Act, 1956”), nonetheless, after filing of the counter affidavit by the respondent-State, it has transpired that



the respondent no.2 has already passed an order dated 18.06.2018, purportedly under Section 6(1) of the Act, 1956, hence the petitioners be granted due opportunity to put forth their defence before the respondent no.2 and the respondent no.2 may then pass the final order in the matter, qua the petitioners herein, without being prejudiced by the aforesaid order dated 18.06.2018.

2. *Per contra*, the learned counsel for the respondent-State submits that in case the petitioners file their objections before the respondent no.2, the same would definitely be considered, in accordance with law.

3. Having regard to the facts and circumstances of the case, I deem it fit and proper to grant liberty to the petitioners to file their objections before the respondent no.2 in the aforesaid Encroachment Case No.10 of 2018-19, within a period of five weeks from today, which shall be considered by the respondent no.2, in accordance with law and without being prejudiced by the aforesaid order dated 18.06.2018 and then the respondent no.2 shall pass the final order under Section 6(1) of the Act, 1956, qua the petitioners, afresh and till then no coercive action shall be taken against the petitioners.

4. It is needless to state that in case no objection is



filed by the petitioners, before the respondent no.2, in the aforesaid Encroachment Case No.10 of 2018-19, within a period of five weeks from today, the aforesaid order dated 18.06.2018 would stand revived and then the petitioners, if so advised, shall be entitled to challenge the same by filing appropriate appeal under Section 11 of the Act, 1956.

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

(Mohit Kumar Shah, J)

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