

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15498 of 2023

1. Moh. Rafik @ Mohammad Rafique Son of Late Abdul Majid. Resident of village-Khiri, Police Station Rajpur, District-Buxar.
2. Abdul Rasid Son of Rasid Miya. Resident of village-Khiri, Police Station Rajpur, District-Buxar.
3. Moh. Gheyasuddin @ Mohammad Gheyasuddin Son of Zakir. Resident of village-Khiri, Police Station Rajpur, District-Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Buxar.
2. The Chief Executive Officer, Zila Parishad, Buxar.
3. The Adhyakchha (Chairman), Zila Parishad, Buxar.
4. The Upadhyakchha (Deputy Chairman) Zila Parishad, Buxar.
5. The Sub-Divisional Officer Rajpur, District-Buxar.
6. The Deputy Development Officer, Buxar District-Buxar.
7. The Circle Officer, Rajpur, District Buxar.
8. The Principal Secretary, Panchayati Raj Department Got. Of Bihar, Patna.
9. The Panchayati Raj Officer, Panchayati Raj Department, Govt. of Bihar, Buxar District-Buxar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Nil Kamal, Advocate
For the Respondent/s : Mr.Md. Khurshid Alam (AAG- 12)
For the Zila Parishad, Buxar : Mr. Vijay Shankar Upadhyay, Advocate

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 21-06-2024 The present writ petition has been filed
seeking the following reliefs:-

*1(i) For that issue a writ in the
nature of Certiorari to quash the
impugned final order passed on
31.07.2023 in Encroachment Case
No. 14/2020-21 by the Respondent*



No.07, by which direction has been given to the petitioners to remove the structure from Mauja Khiri, Khata No.676, Khesra No.1364, Araj 0.3 decimal of the land of Zila Parishad till 16.08.2023 and if fail, the structure from the same would be removed by Administrative help and bear a cost of it from the petitioners as contained in Annexure-1 to this petition.

(ii) For that direct to the Respondent No.1 to settle the land in auction of Mauja Khiri, Anchal Rajpur, District-Buxar of Khata No.676, Plot No.3364 measuring Area 0.3 decimal land of Zila Parishad to minorities landless petitioners as per the recommendation of Respondent No.4 (Upadhyakchha) Zila Parishad, Buxar as well as Sarpanch of the Gram Panchayat contained as Annexure-2 and 2/a to this petition.

(iii) For that direct to the respondent State authorities to dispose the representations of petitioners as well as letters of others contained as Annexure-3 series to this petition.

(iv) For that direct to the Respondent authorities to act and follow the Bihar Panchayati Raj Act, 2006 engrafted u/s 62,69, 73 etc. in



the case of petitioners and settled the same in favour of the petitioners, who are mentioned minorities, poor landless persons doing their business for livelihood over the land in question and residing over the same since last more than 70 years from their ancestral times.

(v) For that direct to the Respondent authorities to not initiate any illegal public land encroachment case over the land in question of the petitioners, which is only source of their livelihood.

(vi) For that direct to Respondent Nos. 1 and 7 to serve a certified copy of impugned order alongwith entire documents of Encroachment Case No. 14/2020-2021 passed by Respondent No.7, who has not been served nor taken a requisition for the same as well as reply under Right to Information Act about the documents of Encroachment Case No. 14/2020-21 filed by petitioners and this fact raised before Respondent No.01 by filing a petition through Postal Registry contained as Annexure-5 these documents are necessary to file in Encroachment Appeal u/s 11 the Act



before the Respondent No.1.

(vii) For that direct to the Respondent Authorities to pass any appropriate order of the letters of other authorities contained as Annexure-3 series to this petition.

(viii) For that direct to the Respondent authorities to not interfere into peaceful possession of the petitioners over the land in question.

(ix) For that stay the impugned order of Respondent No.07 contained as Annexure-1 to this petition.”

2. At the outset, the learned counsel for the respondent-State has submitted, by referring to the counter affidavit filed in the present case, that the proceedings of the aforesaid Encroachment Case No. 14 of 2022-23 is still pending adjudication before the Circle Officer, Rajpur, District-Buxar, hence there is no imminent threat to the petitioners herein, thus endeavours shall be made to conclude the proceedings expeditiously after giving an opportunity of hearing to the petitioners herein.



3. *Per contra*, the learned counsel for the petitioners submits that the petitioners be granted liberty to file their objections, which they would do within a period of four weeks from today and the Circle Officer, Rajpur, District-Buxar be then directed to consider the objections and pass the final order under Section 6(1) of the Bihar Public Land Encroachment Act, 1956.

4. Having regard to the facts and circumstances of the case, this Court finds that since the aforesaid encroachment proceedings are still pending adjudication and no final order under Section 6(1) of the Bihar Public Land Encroachment Act, 1956 has been passed till date, it would be appropriate to grant liberty to the petitioners to file their objections within a period of four weeks from today, whereupon the Circle Officer, Rajpur, District-Buxar shall pass the final order under Section 6(1) of the Bihar Public Land Encroachment Act, 1956 within a period of four weeks thereafter and till then no coercive action shall be taken qua the petitioners herein.



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

(Mohit Kumar Shah, J)

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