

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18361 of 2023

1. Hari Narayan Tiwary Son of Late Vishwanath Tiwary, Resident of Village-Patti, Police Station-Kudra, District- Kaimur (Bhabua).
2. Brija Nand Tiwary, Son of Late Badri Narayan Tiwary, Resident of Village-Patti, Police Station-Kudra, District- Kaimur (Bhabua).
3. Mukti Narayan Tiwary, Son of Late Vishwanath Tiwary, Resident of Village-Patti, Police Station-Kudra, District- Kaimur (Bhabua), presently residing at Ward No. 2, Takiya Bazar Samiti Sasaram, Police Station- Sasaram, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Revenue and Land Reforms Department, Govt. of Bihar, Patna.
2. The Collector-cum-District Magistrate, Kaimur at Bhabua.
3. The Circle Officer, Kudra, District- Kaimur.
4. Din Dayal Tiwary, Son of Late Badri Narayan Tiwary, Resident of Village-Patti, Police Station-Kudra, District- Kaimur (Bhabua).
5. Ashok Kumar Tiwary, Son of Late Badri Narayan Tiwary, Resident of Village- Patti, Police Station-Kudra, District- Kaimur (Bhabua).
6. Krishna Nand Tiwary, Son of Late Badri Narayan Tiwary, Resident of Village- Patti, Police Station-Kudra, District- Kaimur (Bhabua).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Jitendra Prasad Singh, Advocate
For the State	:	Mr. Sarvesh Kumar Singh, AAG-13
		Ms. Sunita Kumari, AC to AAG-13

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 22-04-2024 Heard the parties.

2. The petitioners have moved the Court for the
following reliefs:



“1. For setting aside order dated 19.9.2023 passed by the Collector, Kaimur, Bhabua in Encroachment Appeal Case No.4 of 2023 by which appeal preferred by the petitioners Under Section 11 of the Bihar Public Land Encroachment Act in short Encroachment Act has been dismissed for default.

II. For setting aside the order dated 25.1.2023 passed by Circle Officer, Kudra in Encroachment Case No.02 of 2021-22 whereby it has been held that petitioners are the encroachers and accordingly notice was issued for removal of the same Under Section 6 of the Encroachment Act.

III. For direction to the respondent not to proceed against the petitioners for removal of the encroachment over the land in question by treating it public land in view of the judgment and decree passed by the competent Civil Court in Title Suit as well as Hon'ble High Court in Second Appeal.

IV. For grant of any other relief/reliefs for which the petitioners are legally entitled in the facts and circumstances of the case.”

3. The impugned order dated 19.09.2023 passed by the Collector-cum-District Magistrate, Kaimur (Bhabua) in Encroachment Appeal No. 4 of 2023 is quashed in the interest of justice as the encroachment appeal has been dismissed for default for non appearance.

4. The appeal is restored. The appeal shall be disposed of by the Collector, Kaimur (Bhabua) in accordance with law after hearing the petitioners.

5. During pendency of the appeal, no demolition shall be done as per the order dated 25.01.2023 passed in



Encroachment Case No. 2 of 2021-22 by the Circle Office,
Kudra.

The application stands disposed of.

(Sandeep Kumar, J)

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