

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.970 of 2025

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1. Vijay Kumar Nirala son of Late Ram Kripal Singh @ Late Kripal Singh, Resident of Ward No.- 03, House No.- 417, ITI Road, Hathsarganj, Ice Factory, Hajipur, Police Station-Hajipur, District- Vaishali, Permanent resident of village- Bihvarpur, Police Station- Bidupur, District-Vaishali.
 2. Lalbabu Singh, son of Late Ram Kripal Singh @ Late Kripal Singh, Resident of village- Bihvarpur, Police Station-Bidupur, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna-1.
2. The Principal Secretary, Revenue and Land Reforms, Government of Bihar, Old secretariat, Patna-1.
3. The Divisional Commissioner, Muzaffarpur.
4. The District Magistrate cum Collector, Vaishali.
5. The Sub-Divisional Magistrate, Hajipur, Vaishali.
6. The Circle Officer, Bidupur, Vaishali.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar, Adv. Ms. Sushma Kumari, Adv.
For the Respondent/s	:	Mr. Government Pleader (25)

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 27-01-2025 1. Heard learned counsel for the petitioners and learned GP-25 Mr. Ramadhar Singh.

2. The learned counsel for the State submits that the instant writ application has been filed for quashing notice dated 11.12.2024 passed in Encroachment Case No.04/2022-23 by the Circle Officer, Bidupur, by which, the petitioners have been directed to remove their encroachment from Plot No.241 pertaining to Khata No.157, at Mauza-Bihvarpur, Thana



No.372, District-Vaishali. The learned counsel next submits that the petitioners have rushed to this Court when they have alternative remedy of appeal against the order of the C.O. before the Collector.

3. The learned counsel appearing on behalf of the petitioners rebuts the said submission of the learned counsel for the State and submits that the C.O. without passing the final order under Section 6(1) of the Bihar Land Encroachment Act, 1956 has issued the impugned notice, which is not in accordance with the law. It is also submitted that Jamabandi No.262 (old) and 550(New) is still existing in the name of mother of the petitioners with respect to the land in dispute and without cancelling the said jamabandi, the Encroachment Case No.4/2022-23 was initiated and thereafter the impugned notice was issued. It is further submitted that during pendency of the writ application, a general notice dated 13.01.2025 was issued by the C.O., Bidupur, wherein it was recorded that encroachment shall be removed on 28.01.2025 from the land in dispute, as such, the the petitioner challenged the said notice by filing I.A. No.1/2025 fearing demolition of his house over the land in dispute. The I.A. No.1/2025 is allowed for consideration.



4. At this stage, learned counsel for the State submits that the issue raised in the instant writ application could have been raised by the petitioners before the Collector in appeal assailing the impugned notice and the general notice issued on 13.01.2025 on the ground as pleaded in the instant writ application but then the petitioners instead of availing their alternative remedy of appeal have filed the instant writ application, on which, the learned counsel appearing for the petitioners submits that he will file appeal before the Collector but then till the appeal is not decided, status quo as existing as of date be maintained, it is next submitted by the learned counsel appearing for the petitioners that he had to rush to this Court as the C.O. was bent upon demolishing the house of the petitioners constructed over the land in dispute without passing final order in Encroachment Case No.4/2022-23.

5. After hearing the learned counsel for the parties, the writ application is disposed of with a direction to the petitioners to file an appeal before the Collector, Vaishali against the impugned notices dated 11.12.2024 and 13.01.2025 on the ground raised in the instant writ application and the I.A. No.1/2025 on or before 10.02.2025, if an appeal is filed by the petitioners on or before 10.02.2025, the Collector, Vaishali is



directed to dispose of the same in accordance with law within a period of two months thereafter.

6. It is made clear that if issue of limitation arises, the authorities competent shall keep in mind that petitioners were pursuing their remedy before this Court.

7. It is further made clear that status quo as of date existing shall be maintained till the appeal is not taken up by the Collector for hearing on the first date, thereafter it will be open for the Collector to maintain or not to maintain the status quo.

(Satyavrat Verma, J)

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