

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11063 of 2025

1. Subodh Jha S/o Sri Tarakant Jha, R/o vill and P.O.- Mahishi, P.S.- Mahishi, Distt.- Saharsa.
2. Manoj Jha, S/o Sri Tarakant Jha, R/o vill and P.O.- Mahishi, P.S.- Mahishi, Distt.- Saharsa.
3. Santosh Jha, S/o Sri Tarakant Jha, R/o vill and P.O.- Mahishi, P.S.- Mahishi, Distt.- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Saharsa at Saharsa.
2. The District Magistrate, Saharsa at Saharsa.
3. The Circle Officer, Mahishi Block, Mahishi Saharsa.
4. The S.H.O. Mahishi P.S., Mahishi.
5. Mahesh Bhagat, S/o Late Sitaram Bhagat, R/o Vill and P.O.- Mahishi, P.S.- Mahishi, Distt. - Saharsa.
6. Amar Bhagat, S/o Late Sitaram Bhagat, R/o Vill and P.O.- Mahishi, P.S.- Mahishi, Distt. - Saharsa.
7. Vivek Bhagat, S/o Late Sitaram Bhagat, R/o Vill and P.O.- Mahishi, P.S.- Mahishi, Distt. - Saharsa.
8. Bidyanand Bhagat, S/o Late Sitaram Bhagat, R/o Vill and P.O.- Mahishi, P.S.- Mahishi, Distt. - Saharsa.
9. Muklanand Bhagat, S/o Late Sitaram Bhagat, R/o Vill and P.O.- Mahishi, P.S.- Mahishi, Distt. - Saharsa.
10. Rajneesh Bhagat, S/o Late Radheshyam Bhagat, R/o Vill and P.O.- Mahishi, P.S.- Mahishi, Distt. - Saharsa.
11. Rinku Bhagat, S/o Late Radheshyam Bhagat, R/o Vill and P.O.- Mahishi, P.S.- Mahishi, Distt. - Saharsa.
12. Tarakant Jha, S/o Late Damodar Jha, R/o Vill and P.O.- Mahishi, P.S.- Mahishi, Distt. - Saharsa.
13. Pramod Jha, S/o Tarakant Jha, R/o Vill and P.O.- Mahishi, P.S.- Mahishi, Distt. - Saharsa.
14. Kundan Jha, S/o Tarakant Jha, R/o Vill and P.O.- Mahishi, P.S.- Mahishi, Distt. - Saharsa.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Amresh Kumar Sinha, Advocate



For the Respondent/s : Mr. AC to SC-18

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT

Date : 10-07-2025

Heard learned counsel for the petitioners and learned AC to SC-18 for the State.

2. Learned counsel appearing on behalf of the petitioners submits that the instant writ application has been filed for setting aside the notice dated 13.05.2025 issued under the signature of the Circle Officer, Mahishi Block, Mahishi, Saharsa whereby petitioners have been directed to remove the encroachment over the land pertaining to Khesra No. 6605, area 0.1.22 decimals, Thana No. 105, Thana Mahishi, District Saharsa on the ground that the land is public land. Further, for a direction upon the Circle Officer, Mahishi to appear before the learned Sub-Judge, Saharsa in light of notice issued vide order dated 17.05.2025 in Title Suit No. 362 of 2025.

3. Learned counsel for the petitioners submits that the land in dispute was sold by Bikku Kahar in the year 1908 to Kameshwar Singh and others vide sale deed no. 1448 dated 13.09.1908. Thereafter, the land in dispute was given to Sri Tarakant Jha Panda, by way of 'Dan Patra' (Annexure-P/1) by Kameshwar Singh and others. Thereafter, Tarakant Jha took possession of the land in dispute and constructed his house in the year 1979. It is further submitted that the land in the CS Khatiyani is recorded in the name of Bikku Kahar and the same was transferred vide registered sale deed in the



name of Kameshwar Singh and others but on account of some mistake the land was recorded as public land (Anabad Bihar) in the year 1968 but then father of the petitioners were not aware of the said mistake. It is next submitted that the Circle Officer, Mahishi issued a notice dated 28.04.2025 which was received by the petitioners on 29.04.2025 and they were asked to appear on 04.05.2025 with all the relevant documents of the land in their support. The petitioners, accordingly, appeared before the Circle Officer, Mahishi and submitted the documents relating to the land which was kept by the Circle Officer, Mahishi. It is also submitted that thereafter petitioners filed Title Suit No. 362 of 2025 on 03.05.2025 which was admitted and notice has been issued. It is submitted that after the petitioners filed Title Suit No. 362 of 2025 on 03.05.2025 thereafter they again received notice dated 13.05.2025 impugned in the instant writ application directing the petitioners to demolish the dwelling house over the land in dispute.

4. Learned counsel for the petitioners submits that petitioners are not aware as to whether any encroachment proceeding was initiated against them for removing the encroachment. It is further submitted that though petitioners have received notice dated 13.05.2025 issued by the Circle Officer, Mahishi under Section 6 of the Bihar Land Encroachment Act, 1956 but the same also does not disclose the encroachment case number, as such, petitioners are not



in a position to assail the final order, if any, in encroachment case. It is next submitted that prior to receiving the notice dated 13.05.2025, the petitioners have filed Title Suit No. 362 of 2025 on 03.05.2025 in the Court of learned Sub-Judge, Saharsa in which notices have been issued but then the Circle Officer, Mahishi has not appeared. It is also submitted that the house on the land in dispute is the only residential house of the petitioners and if the house is demolished in that event the petitioners would become homeless.

5. Learned counsel appearing on behalf of the State submits that petitioners have rushed to this Court instead of availing their alternative remedy in accordance with law. It is further submitted that if what has been pleaded and submitted before this Court is correct in that event the petitioners ought to have brought the said fact to the notice of the District Magistrate-cum-Collector, Saharsa so that the true facts would have come to the fore on which learned counsel appearing on behalf of the petitioners submits that they will file an appeal/application before the District Magistrate-cum-Collector, Saharsa seeking redressal of their grievance as raised in the instant writ application on or before 25.07.2025.

6. After hearing the learned counsel for the parties, the writ application is disposed of with liberty to the petitioners to avail their remedy in accordance with law before the District Magistrate-cum-



Collector, Saharsa against the notice impugned in the instant writ application by filing an appeal/application on or before 25.07.2025.

7. It is made clear that if any application before the District Magistrate-cum-Collector, Saharsa is filed by the petitioners on or before 25.07.2025 in that event the District Magistrate-cum-Collector, Saharsa shall consider and dispose of the same in accordance with law within a period of two months thereafter, after giving proper opportunity of hearing to the petitioners.

8. It is further made clear that demolition of the premises on the land in dispute shall not be given effect to till 25.07.2025 and thereafter it will be at the discretion of the District Magistrate-cum-Collector, Saharsa to stay or not to stay the demolition.

(Satyavrat Verma, J)

Kundan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.07.2025
Transmission Date	

