

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13658 of 2025

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1. Suresh Sah S/o- Bakash Sah R/o village- Lokariya, Ward No.- 7, P.S.- Bairiya, Dist.- West Champaran.
 2. Sanjay Sah, S/o Suresh Sah R/o village- Lokariya, Ward No.- 7, P.S.- Bairiya, Dist.- West Champaran.
 3. Kanti Devi, W/o Suresh Sah R/o village- Lokariya, Ward No.- 7, P.S.- Bairiya, Dist.- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Bettiah, West Champaran.
2. Sub Divisional Officer, Sadar, West Champaran.
3. The Circle Officer, Bairiya, West Champaran.
4. Pradeep Mishra, S/o Jaga Ram R/o Village- Lokariya, Ward No.- 7, P.S.- Bairiya, Dist.- West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Dhannjay Kumar No 2
For the Respondent/s : Mr.Standing Counsel (16)

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 27-08-2025 1. Defects ignored.

2. Heard the parties.

3. The petitioners have filed the present writ application for quashing the order dated 05.07.2025 passed by the Circle Officer, Bairiya, West Champaran in Encroachment Case No. 01 / 2025-26 whereby the petitioners have been directed to remove their encroachment from the subject land situated in Thana No. 112, Khata No. 390 , Khesra No. 2892, village: Lokariya, Block- Bairiya, District -West Champaran.



4. Learned counsel for the petitioners submits that petitioners have constructed their house with bricks wall and roof (asbestos) under Indira Awas Yojna on the subject land which is recorded as Garmarjhuwa Dikedar Kism Parti Kadim (Government land). Petitioners families have been residing in the residential house on the subject land for the last 100 years. The petitioners are landless persons. In a big chunk of land situated in Khata No. 390 about 200 families are residing and in favour of some of them the respondents authority has passed the order of settlement which is evident from Annexure -P/2. On the complaint of the respondent no. 4 (Pradeep Mishra), the Circle Officer, Bairiya, West Champaran has initiated encroachment proceeding under the Bihar Public Land Encroachment Act, 1956 (for short the “Encroachment Act”) and the Circle Officer, Bairiya, West Champaran has passed the final order under section 6(1) of the Encroachment Act and directed for removal of encroachment from the land in question. The petitioners have filed representation before the District Magistrate, West Champaran seeking appropriate direction in the matter however no action has been taken.

5. Learned counsel further submits that petitioners propose to file regular appeal under Section 11 of the Encroachment Act



before the District Magistrate, Bettiah, West Champaran challenging the final order dated 05.07.2025 passed in Encroachment Case No. 01 / 2025-26.

6. On the other hand, learned counsel for the State submits that petitioners have constructed their house on the government land and the Circle Officer, Bairiya, West Champaran issued notice under section 3 of the Encroachment Act after giving opportunity to the petitioners to file their objections and after hearing has passed the final order directing for removal of encroachment from the subject land.

7. Regard being had to the submissions made by the parties, taking into consideration the fact that the impugned order is appealable and the petitioners are ready to file appeal, accordingly, the present writ application is disposed with liberty to the petitioners to file appeal before the District Magistrate, Bettiah, West Champaran within a period of one month from today. If such appeal is filed, the District Magistrate, Bettiah, West Champaran shall be obliged to dispose the appeal in accordance with law after giving opportunity of hearing to all concerned within a period of three months from the date of filing of the appeal.

8. Till disposal of the appeal by the District Magistrate,



Bettiah, West Champaran the petitioners shall not be removed
from the land / house in question.

(Anil Kumar Sinha, J)

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