IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.453 of 2023

CNR No. BRHC010026902023

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1. Asharfi Rai Son of Ramapratap Rai, Resident of Village- Lukki Nandlalpur, P.O.- Sakari Saraiya, Lakhmi Nandlalpur, District- Muzaffarpur, Bihar- 844127
2. Shivchandra Rai Son of Ramapratap Rai, Resident of Village- Lukki Nandlalpur, P.O.- Sakari Saraiya, Lakhmi Nandlalpur, District- Muzaffarpur, Bihar- 844127
3. Hriday Rai Son of Ramapratap Rai, Resident of Village- Lukki Nandlalpur, P.O.- Sakari Saraiya, Lakhmi Nandlalpur, District- Muzaffarpur, Bihar- 844127

... ... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Muzaffarpur.
3. The Circle Officer, Kurhani, District- Muzaffarpur.
4. Vivekanand Sah, Amin, Kurhani, District- Muzaffarpur.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kumar Alok, Advocate
	:	Mr. Rakesh Kumar, Advocate
	:	Mr. Ujjwal Kumar, Advocate
	:	Mr. Satyeshwar Prasad, Advocate
For the State	:	Mr. Vishwa Ranjan Choudhary, GP-25
	:	Mr. Sudhanshu Bhushan, AC to GP-25

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

6 29-10-2026 Heard Mr. Kumar Alok, learned counsel for the petitioner and learned State counsel.

2. The present petition has been preferred for the grant of following relief(s):

"(i) for issuance of an appropriate writ(s)/ order(s)/ direction(s) for quashing the recommendation of the respondent no.- 4 by which he has held that petitioners' land cum hut

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in Khata No.- 286 and Kheshra No.- 558 is an encroached property and to direct the respondent no.- 3 not to act upon it.

(ii) for directing the respondent no. 2 to declare that petitioners' land cum hut/building in Khata No. 286 and Kheshra No.- 558 is not an encroached property.

(iii) for staying the operation of any action by the responding authorities based on the recommendation of the respondent no.-4 by which he has held that petitioners' land cum hut/building in Khata No.- 286 and Kheshra No.- 558 is an encroached property and to stop any action to vacate/demolish the land cum hut/building of the petitioners during the pendency of this writ petition.

(iv) for any other order or direction which your Lordship may deem fit and proper in the facts and circumstances of the case."

3. This order be read in continuation of the order dated 24.09.2026 by which the original file of Encroachment Proceeding No.04 of 2019-20 was summoned beside asking the

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respondents to file affidavit.

4. Pursuant thereto, the original file has been made available and supplementary counter affidavit has also come. A perusal of the entire original file would show that the complete go by has given to the Bihar Public Land Encroachment Act, 1956 (henceforth for short 'the Act') inasmuch as at no point of time the Encroachment Proceeding No.04 of 2019-20 was taken to its logical conclusion by the concerned Circle Officer.

5. Though it talks about the order dated 21.07.2020 but simply records that as encroachers refused to accept the notice, steps be taken for its removal by demand of forces from the appropriate authority.

6. So far as notice part is concerned, this Court has gone through the original file and can see that in a routine manner, on the back of the page of the notice, one Anil Kumar Sharma has recorded the same line again and again without informing on which date he visited home and who refused to accept notice that the notice was not accepted. One of the statement made therein is being recorded herein:

महाशय,
नोटिस पढ़ समझकर लेने से इनकार किया।
तामिला सही है।
अनिल कुमार शर्मा

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7. This Court deems it appropriate to direct the District Magistrate-cum-Collector, Muzaffarpur to initiate appropriate proceeding against the concerned official in accordance with law, if he has still not retired and/or working in the office of the Circle Officer, Kurhani (Turki), Muzaffarpur as it is very clear that the alleged issuance of notice/refusal by the encroachers is/are farce and the document has been prepared by sitting in the office.

8. So far as the encroachment proceeding no.04 of 2019-20 is concerned, considering the fact and after going through the entire original record and despite giving sufficient opportunity to the learned State counsel to show the order and the date when the petitioners were declared as encroachers and directions given to them to remove encroachment within a particular period thus taking the aforesaid encroachment proceeding to a logical conclusion, the same could not be provided.

9. In that background, this Court has no option but to allow the present petition. The revenue authorities have liberty either initiate fresh encroachment proceeding and/or take the encroachment proceeding no.04 of 2019-20 to its logical conclusion.

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10. Unless an order is passed after proper service of notice to the alleged encroachers and/or hearing them and/or declaring them encroachers with direction to remove the encroachment within a particular period, no further step shall be taken by the revenue authorities.

11. With the aforesaid observation, the writ petition stands disposed of.

12. The original record is handed over to the learned State Counsel for its return journey to the office of the Circle Officer, Turkey, Muzaffarpur.

(Rajiv Roy, J)

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