

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18911 of 2016

1. Suresh Mahto and Ors son of Late Dhaneshwar Mahto
2. Shravan Mahto son of Late Dhaneshwar Mahto
3. Gauri Devi wife of Late Upendra Mahto
4. Sone Lal Mahto son of Late Uchit Mahto
5. Mahabir Mahto son of Late Guneshwar Mahto
6. Jai Prakash Mahto son of Late Guneshwar Mahto
7. Ghutar Mahto son of Ganga Mahto
8. Kameshwar Mahto son of Late Mishri Mahto
9. Shabhak Lal Mahto alias Shubhak Lal son of Late Santu Mahto
10. Rukan Mukhiya son of Late Dahu Mukhiya
11. Kari Khan son of Late Manna Mian
12. Bibi Sahnaj Khatoon daughter of Late Md. Khalil Mian
13. Mastkin Mian son of Late Md. Saheb Khan
14. Chulhay Mian son of Late Md. Saheb Khan
15. Rustam son of Late Jalal Khan
16. Gafur Mian son of Late Sakhawat Mian
17. Md. Manjur son of Late Md. Bilsu
18. Arif son of Late Nazif
19. Md. Kalam son of Late Md. Idrish
20. Md. Tulla son of Late Md. Anish
21. Wakil Mian son of Late Bagru Mian
22. Md. Adalat son of Late Nirsu
23. Md. Muddin son of Md. Fakruddi
24. Md. Sabud alias Md. Shabir son of Late Najib
25. Md. Kayum son of Dukha
26. Md. Suddin son of Md. Fakruddin
27. Suresh Bhagat son of Late Ghoghar Bhagat
28. Md. Rajjak son of Late Magan Mian
29. Md. Jamaluddin son of Late Janulabdin
30. Md. Farook son of Late Hafizuddin
31. Md. Barik son of Ali Hassan
32. Md. Mustafa son of Late Saheb Mian
33. Md. Sanobar son of Md. Ganori
34. Md. Ainul son of Late Gaffar Mian
35. Daud Khan son of Md. Ashgar



36. Md. Jahir son of Late Kampotar
37. Md. Khurshid son of Mustafa
38. Md. Mahiuddin alias Mahdi son of Late Hanif
39. Md. Maklu son of Late Md. Naim
40. Md. Uddin son of Fakruddin
41. Salauddin son of Khudabaks
42. Md. Sattar son of Late Md. Ismail
43. Md. Fakruddin son of Late Magain Mian
44. Nathan Yadav son of Late Banilal Yadav
45. Md. Nasir son of Late Fagu Mian
46. Md. Nasim son of Late Umed Ali
47. Md. Mansur son of Late Mahiuddin
48. Md. Sultan son of Md. Moharam
49. Md. Tohid son of Late Md. Nirsu
50. Md. Khalid son of Late Md. Safruddin
51. Nehal son of Late Ghuran
52. Rajendra Mahto son of Late Bibhichhan Mahto
53. Bijendra Kumar son of Late Bibhichhan Mahto
54. Nepali Mahto son of Late Uchit Mahto
55. Bishnudeo Mahto son of Late Uchit Mahto
56. Jagmaya Devi wife of Late Harihar Mahto
57. Mankuni Mahto son of Late Harihar Mahto
58. Jitendra alias Jitendra Mahto son of Late Bibhichhan Mahto
59. Kirat Mahto son of Late Anandi Mahto
60. Saraswati Devi wife of Late Gobardhan Mahto
61. Arti Devi wife of Nathan Yadav
62. Urmila Devi wife of Mahendra Mahto
63. Ramesh Mukhiya son of Shivji Mukhiya
64. Nirmala Devi wife of Dipu Mukhiya
65. Sugya Devi wife of Bidan Mukhiya
66. Surendra Mahto son of Late Parsadi Mahto
67. Laxmi Devi wife of Ganesh Yadav
68. Rameshwar Sah son of Late Asharfi Sah
69. Md. Bechan son of Late Md. Sahid
70. Md. Tullah son of Md. Sarit
71. Saud Alam son of Late Ramjan Mistri
72. Bibi Hasina w/o late Hedayat Mian @ Hedayat Mistri



73. Mahmood Alam s/o late Ramjan Mian
74. Md. Munna Khan son of Late Suleman Khan
75. Shivjee Mukhiya s/o Late Bhagwat Mukhiya
76. Bibi Samila w/o Late Raffique All residents of village - Budhma Lakhraj,
Post office - Budhma, Police Station District - Madhepura.
... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The District Magistrate, Madhepura.
3. The Sub-Divisional Magistrate, Madhepura.
4. The Circle Officer, Madhepura.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Surya Narayan Yadav
For the Respondent/s : Mr.Md.Khurshid Alam-Aag12

CORAM: HONOURABLE MR. JUSTICE RAJ KUMAR
ORAL ORDER

5 28-07-2026 Heard learned counsel for the petitioner as well as
the learned counsel appearing on behalf of the State.

2. The writ application has been filed for quashing the notices issued by the respondent-Circle Officer, Madhepura vide letter No. 729-2 dated 27.8.2016 by which the petitioner has been given notices to show-cause as to why the encroachment made by them on the plot mentioned in the notice be not removed.

3. Learned counsel for the petitioner submits that they are residing there for more than 100 years and some of them have been granted Purcha under Bihar Privilege Persons Homestead Tenancy Act and they are also having houses under the Indira Aawas Yojana.



4. Learned counsel next submits that the petitioners are aggrieved by the notices and show-cause issued to them on that account.

5. Learned counsel appearing on behalf of the respondent submits that the present writ application is not maintainable against show-cause notice issued under Section 3 of the Bihar Public Land Encroachment Act, in view of the several decisions of the Hon'ble Patna High Court as the authority have noticed the encroachers only to appear and file their show-causes. Learned counsel further submits that the show-cause was issued way back in 2016 and petitioner till date has failed to appear, therefore, the writ is devoid on merit, learned counsel for the petitioner at this juncture submit that if the authorities proceed to dispossess them then in that context they should be given liberty to approach before the Circle Officer, Madhepura.

6. This Court cannot grant liberty to petitioner to file show-cause in the encroachment proceedings already initiated 10 years ago but for the ends of justice if petitioners are aggrieved by any action of the authorities, may file a detailed representation before the Circle Officer, Madhepura/ respondent No. 4, thereafter, the Circle Officer may examine the grievance



of the petitioners afresh in the light of their title/possession of the land, recorded, in their favour within three months from the date of representation. Then Circle Officer may examine and decide the representation in accordance with law after hearing the parties, only after their grievance is found to be genuine. This Court is of the opinion that the earlier encroachment proceedings wherein any show-cause was asked from the petitioner will have no bearing in this matter. It is also made clear that if the Purchas have been issued to the petitioners under the authority of Bihar Privileged Persons Homestead Tenancy Act, 1947, then the authorities can only take recourse to the competent Court of civil jurisdiction for removing them from their respective possession.

7. Application is disposed of in view of the aforesaid observations.

(Raj Kumar, J)

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