

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19419 of 2025

1. Kisto Prasad Gupta @ Kisto Prasad Son of Late Ram Chandra Shaw Resident of ward no.- 16, near Mandir, Umanath, Barh, Patna, Bihar, 803213.
2. Dhrub Prasad Gupta, Son of Late Ram Chandra Shaw Resident of ward no.- 16, near Mandir, Umanath, Barh, Patna, Bihar, 803213.
3. Arun Kumar Gupta, Son of Late Ram Chandra Shaw Resident of ward no.- 16, near Mandir, Umanath, Barh, Patna, Bihar, 803213.
4. Vijay Kumar Pandey, Son of Late Chandra Dev Pandey Resident of ward no.- 16, near Mandir, Umanath, Barh, Patna, Bihar, 803213.
5. Ashutosh Kumar Pathak, (Legal representative of Late Dharendra Pathak alias Dhiraj Pathak, Son of Late Bachan Pathak Resident of ward no.- 16, near Mandir, Umanath, Barh, Patna, Bihar, 803213.
6. Parbhawati Devi, W/o Late Amarnath Giri, Son of Late Kailash Bharti Resident of ward no.- 16, near Mandir, Umanath, Barh, Patna, Bihar, 803213.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Patna.
2. The Deputy Collector Land Reforms, Barh, Patna.
3. The Circle Officer, Barh, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar Singh, Sr. Adv.
	:	Mr. Ashish Kumar, Adv.
	:	Mr. Saharsh Singh, Adv.
For the Respondent/s	:	Mr. Standing Counsel (25)

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 2 31-01-2026 1. Petitioners have filed the present writ application challenging the notice dated 25.04.2022 issued in Encroachment Case No. 7 of 2018 by C.O., Barh, for removal of encroachment from Khata No. 114, Plot No. 3 having a total area of 50 decimals in Thana No. 55, Mauja- Banarasi, District- Patna.
2. Learned senior counsel for the petitioners submits



that petitioners and their family members have been residing upon the subject land since 1946 after purchasing the same by virtue of registered sale deed, which has been annexed as Annexure-1. The rent receipts are being issued in favour of the petitioners and their family members since long and the petitioners have been paying their rent continuously. The pakka residential house has been constructed upon the subject land in which electricity connection has been provided, and the petitioners have been paying their electricity bill also.

3. It has been further submitted that a proceeding under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as the Act), was earlier initiated in the year 1975-76 having a land Encroachment Case No. 26 of 1975-76 upon the subject land and the then competent authority vide his order dated 11.11.1975 dropped the encroachment proceeding on the ground that land in question is not a public land, as such, the Act shall not apply.

4. Subsequently, in 2018, a fresh proceeding under the Act was initiated and the Encroachment Case No. 7 of 2018 before the C.O., Barh, was instituted, in which the petitioners submitted their reply/objection. Without giving any opportunity of hearing to the petitioners and passing final order in presence



of the petitioners, the impugned notice dated 25.04.2022 was issued against the petitioners under Section 6(2) of the Act and the copy of which was made available to the petitioners. The petitioners submitted their reply also and the matter remained pending since then. Suddenly, the bulldozer action has started and some of the nearby houses have been demolished. Accordingly, the petitioners are having apprehension that their houses shall also be demolished pursuant to the impugned notice which has been issued in complete violation of principles of natural justice.

5. Learned counsel for the state argued that no date has been fixed for demolition and there is a provision for appeal under Section 11 of the Act, as such, the petitioners may file an appeal before the District Magistrate against the notice and/or final order passed by the Circle Officer, Barh.

6. Having heard learned counsel for the parties and taking into consideration the fact that final notice has been issued for demolition of the residential houses of the petitioners and also the fact that the final order/notice of the Circle Officer is appealable before the District Magistrate, accordingly, the present writ application is disposed with liberty to the petitioners to file appeal against the order passed in



Encroachment Case No. 7 of 2018 and the final notice within a period of 15 days from today. If such an appeal is filed, the District Magistrate, Patna, is directed to call for the records of the Encroachment Case No. 7 of 2018 from the Circle Officer Barh, and after giving opportunity of hearing to all concerned, including the petitioners, the District Magistrate, Patna, is directed to dispose the encroachment case in accordance with law by speaking and reasoned order within a period of four months from the date of filing of appeal.

7. It is made clear that till further order, there shall be no demolition of the houses of the petitioners situated on the subject land and no steps shall be taken for removal of encroachment from the land in question qua the petitioners.

8. With the aforesaid direction and observation, the present writ application is disposed.

(Anil Kumar Sinha, J)

HarshPandey/-

U			
---	--	--	--

