
(2015) 01 PAT CK 0104

In the Patna High Court

Case No : CWJC Nos. 3439 and 3941 of 2014

Devendra Prasad Singh and Others

APPELLANT

Vs

The Union of India and Others

RESPONDENT

Date of Decision : 08-01-2015

Acts Referred:

Citation : (2015) 2 PLJR 10

Hon'ble Judges : Jyoti Saran, J

Bench : Single Bench

Advocate : Santosh Kumar Singh, for the Appellant; Binita Singh, Advocates for the Respondent

Final Decision : Allowed

Judgement

Jyoti Saran, J.

1. Heard Mr. Santosh Kumar Singh for the petitioner in CWJC No. 3439 of 2014 and Mr. Binay Kant Mani Tripathi, learned counsel appearing on behalf of the petitioner in CWJC No. 3941 of 2014. Since identical orders are put to question in the two writ petitions hence they have been taken up together with a view to their final disposal.

2. The petitioners in each of the two writ petitions are aggrieved by a notice issued by the respondent Assistant Divisional Engineer (Line), East Central Railway, Patna Junction, Patna directing the petitioners to remove the encroachment allegedly made on the railway property within three days of the issuance of the notice which is dated 8.2.2014 failing which the same would be removed by the railway administration. Whereas the notice is impugned at Annexure-7 in CWJC No. 3439 of 2014 an identical notice is impugned at Annexure-5 to the second writ petition.

3. The petitioners herein have questioned the notice on the following grounds:--

"(a) The allegation that the petitioners have encroached on railway property is

incorrect;

(b) The petitioners are bona fide purchasers of the property on which they have constructed their respective house/shop;

(c) The notices have been issued without drawing a duly constituted proceedings;

(d) The orders have been passed without notice to the petitioners;

(e) The order is without any foundation."

4. Mr. Anil Singh has appeared for the respondents in both the writ applications and files counter affidavit. Mr. Singh very fairly accepts the position that the orders have been passed without drawing a properly constituted proceedings and without any show cause notice to the petitioners.

5. Considering the admissions by the respondents that the orders impugned in the two writ petitions have been passed without drawing a properly constituted proceedings and without notice to the petitioners, the notices dated 8.2.2014 impugned at Annexure-7 and Annexure-5 to the respective writ petitions, cannot be upheld and are accordingly set aside. The writ petitions are allowed. The order passed in the present proceedings will not preclude the respondents to proceed in the matter in accordance with law.