

(2021) 02 PAT CK 0215

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 23741 Of 2019

Ravindra Nath @ Ravindra Paswan And Ors

APPELLANT

Vs

State Of Bihar And Anr

RESPONDENT

Date of Decision : 18-02-2021

Acts Referred:

Bihar Public Land Encroachment Act, 1956 — Section 3

Citation : (2021) 02 PAT CK 0215

Hon'ble Judges : Partha Sarthy, J

Bench : Single Bench

Advocate : Puneet Siddhartha, Aryan Sinha, Md.Nadim Seraj, Shailesh Kumar

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the petitioners and learned counsel for the State.
2. The petitioners have filed the instant application for restraining the respondent authorities from demolition of the property of the petitioners which have been marked for demolition in an arbitrary manner and to restrain them from taking any coercive steps relating to demolition during pendency of the instant case.
3. The case of the ten petitioners in brief are that each of them purchased a piece of land, details of which have been given in the writ application through registered sale deeds which have also been brought on record. The petitioners did not receive any notice as contemplated under section 3 of the Bihar Public Land Encroachment Act, however, they were surprised that their respective properties were marked by the respondents for demolition, showing them to be encroachment.
4. I.A. no. 01 of 2020 was filed by the petitioners praying therein for stay of

demolition of the property of the petitioners. By order dated 29.06.2020, it was directed that the parties shall maintain status quo as on the said date.

5. A counter affidavit was filed on behalf of the respondent nos. 2 to 5 to which a rejoinder was filed on behalf of the petitioners.

6. The case of the respondents in the counter affidavit was that the matter related to widening of Sadikpur â?" Pavera Masaurhi Road. The land in

question had been acquired in the year 1960-63 and payments against the acquired land had already been made. It was submitted that payments

having been made in the year 1962-63 vide L.A Case no. 45/1962-63 and L.A. Case no. 20/1962-63, a proceeding under the Bihar Public Land

Encroachment Act was initiated and notices were sent to encroachers under section 3 of the Act in Encroachment Case no. 06/2019-20. Besides the

individual notices a public notice was also sent besides making announcement on loudspeaker. The encroachers/parties were given opportunity to

present their case and after considering the documents and contentions of the encroachers, final orders under the Act was passed, the complete order

sheet having been brought on record as Annexure-E to the counter affidavit. It is, thus, submitted that final orders in the encroachment case having

been passed after following due process as prescribed under the Act, the petitioners have not made out any case for grant of relief in this case.

7. Heard the parties.

8. In reply to the specific case of the petitioners that no notice under section 3 of the Act was served on any of them, although large number of

individual notices have been brought on record as annexures to the counter affidavit of the respondents, none of the notices relate to the petitioners of

the instant application. Section 3 of the Act prescribes that the Collector on receiving information from any source about encroachment upon any

public land may cause to be served upon such person a notice in the prescribed form requiring him to appear. The notice prescribed has been provided

in Form-1 of Appendix -1. There being no notice issued to any of the petitioners as required under the Act, the so called order passed in the

encroachment case would not be effective nor sustainable so far as these petitioners are concerned.

9. However, in the facts and circumstances of the case, as the matter relates to widening of road, it is directed that all the petitioners shall appear

before the newly added respondent no. 5 i.e. the Circle Officer, Sampatchak, District Patna on 01.03.2021 at 11 am. The Circle Officer shall give

to the petitioners a copy of the notice under section 3 of the Act, an opportunity to file their reply and proceed to decide the case in accordance with

law.

10. The writ application stands disposed of with the above observation and directions.