

(2021) 01 PAT CK 0134

Patna High Court

Case No: Civil Writ Jurisdiction Case No. 7620 Of 2020

Naresh Singh And Ors APPELLANT

Vs

State Of Bihar And Ors RESPONDENT

Date of Decision: Jan. 7, 2021

Acts Referred:

- Constitution Of India, 1950 - Article 226

Hon'ble Judges: Madhuresh Prasad, J

Bench: Single Bench

Advocate: Narayan Singh, Subodh Kumar, Lalit Kishore

Final Decision: Dismissed

Judgement

Heard learned counsel for the petitioners and the respondent- State.

Petitioners have approached this court seeking quashing of notice dated 17.03.2020 issued by the Circle Officer, Gogri in Encroachment Case No 13 of 2019-2020.

The learned senior counsel representing the petitioners submits that the petitioners were displaced by floods in the year 1962. On account of such

displacement and being deprived of all their possession, they settled down on the lands, in respect of which, the impugned notice has been issued. The

petitionersâ€™ claim title over the lands in-question by virtue of adverse possession since the year 1962. Specific averments to this effect has been

made in the grounds of the writ petition. It is further submitted that a report was earlier submitted by the Circle Officer, Gogri to the Sub Divisional

Officer to be Grievance Redressal Officer, Gogri, wherein, it has been stated that the persons occupying the lands for which the Encroachment case

No. 13 of 2019-2020 was proceeding, were landless persons in favour of whom Purcha could be issued. It is submitted that instead of issuing any Purcha to the petitioners, they are now faced with the threat of dispossession from the lands in question by virtue of impugned notice issued in Encroachment Case No 13 of 2019-2020.

The State counsel has submitted that the assertion of the petitioners regarding their title being perfected by virtue of adverse possession is a claim which the petitioners would be required to establish in appropriate civil proceedings by leading evidence. Any declaration to that effect cannot be had in the instant proceedings. It is further submitted that the petitioners cannot claim any indefeasible right to continue on the lands in-question as their occupation of the Government land is an encroachment. The report of the Circle Officer relied upon by the petitioners dated 19.09.2018 (Annexure-4 to the writ petition) will not create any right in favour of the petitioners as the petitioners name does not find mention in the said order. He submits that the issue has subsequently been looked into by the Authorities. After thorough assessment of the status of the various persons, who have encroached upon the government lands in-question, a report has been submitted by the Revenue Karmchari, which is dated 06.10.2020. The same is Annexure-E to the counter affidavit filed by the respondent Authorities. After a thorough and detailed enquiry with respect to status of the encroacher the Revenue Karmchari has submitted a report, wherein, the instant petitioners name figure at Serial No 13 to

17. The Revenue Karmchari has reported that the petitioners are not landless, they have concrete houses and also possess lands. The claim for being issued Purcha raised by the petitioners, therefore, on the basis of Annexure-4 to the writ petition, which is prior to Annexure-E of the counter affidavit, wherein, such findings have been recorded, is clearly unsustainable. He lastly submits that against the impugned order, which has been issued in an Encroachment case, the petitioner has remedy under the Bihar Land Encroachment Act.

This Court has considered the submissions of the rival parties.. This Court, while exercising jurisdiction under Article 226 of the Constitution of India

would not exercise jurisdiction to declare title and possession of the petitioners in respect of Government lands on the basis of adverse possession.

Such a claim/prayer can only be made in appropriate civil proceedings. This Court, therefore, would not exercise jurisdiction in respect of this prayer of the petitioners.

In so far as the claim for Purcha, this Court would only observe that Annexure-4 to the writ petition, on which reliance has been placed by the petitioners, is not a recommendation in favour of the petitioners in specific terms. Petitioners name does not figure in the said recommendation. On the contrary, their name figures in the report of the Revenue Karmchari (Annexure- E to the counter affidavit), wherein, in respect of the petitioners, it has been reported that they are not landless, and are having a concrete houses and other pieces of land elsewhere. Whether the said report is correct or not is an issue which this Court would refrain from commenting upon, in view of the nature of the order this court proposes to pass. The petitioners may take resort to proceedings claiming Purcha as a landless persons before the appropriate Authority/Forum, subject to fulfillment of the requisite criteria for the same, and only in accordance with law. Based on the pleadings on record, there is no occasion for this Court to exercise jurisdiction to issue any such direction in favour of the petitioners.

Clearly, no case is made out for the relief/s prayed for in the instant proceedings. The writ petition is dismissed.

It is, however, made clear that any observations made in the instant order may not be taken to be an expression of opinion on the rival claims. The petitioners would be at liberty to avail their remedy under the Bihar Public Land Encroachment Act or any other Forum, in accordance with law, for their claim in respect of the lands in-question.