

## Pankaj Tiwari Vs State Of Bihar

**Court:** Patna High Court

**Date of Decision:** Aug. 31, 2022

**Acts Referred:** Bihar Public Land Encroachment Act, 1956 " Section 6(1)

**Hon'ble Judges:** Sanjay Karol, CJ; S. Kumar, J

**Bench:** Division Bench

**Advocate:** Chandra Kant, Lalit Kishore, Bishwa Bibhuti Kumar Singh

**Final Decision:** Disposed Of

### Judgement

These appeals are directed against the orders dated 8/8/2022 passed in C.W.J.C. No. 1804 of 2019, titled as Awadh Kishore Singh & Ors. Vs. The

State of Bihar & Ors. and 8.8.2022 passed in C.W.J.C. No. 11518 of 2018, titled as Mustafa Deewan & Ors. Vs. The State of Bihar & Ors. by a

learned Single Judge of this Court.

Encroachment proceedings with respect to land situate in Mauza Thakraha, P.S. Thakraha, district- West Champaran, were initiated by the authorities

in the year 2015-2016.

Seventeen persons, namely Mushtafa Deewan, Raju Kumar Mali @ Raju Mali, Anwar Deewan, Jamrun @ Jamrul Nesha, Santosh Tiwari, Pankaj

Tiwari, Jay Chandra @ Bodhan Sah, Lochan Mali, Jangli Mali, Nasiran Nesa, Buddhu Yadav, Sohila Bhagat @ Sohila Chaudhary, Saisun Nesa @

Most. Shamsul Nesa, Prabhu Gupta @ Prabhu Sah, Aianul Nesa, Makhmal Nesa @ Makmul Nesa and Manindra Tiwari filed a writ petition

assailing the order dated 11.06.2018 issued by the Circle Officer, Thakraha in relation to the encroachment proceedings. The same was registered as

C.W.J.C. No. 11518 of 2018, titled as Mustafa Deewan & Ors. Vs. The State of Bihar & Ors. On 10.08.2018, this Court directed the authorities to

maintain status quo. Unfortunately, no action for modification of the order was initiated by the Circle Officer/concerned District Magistrate and the

interim order was allowed to remain in operation. It is only when the matter was taken up by the Court on 8th of August, 2022, that the Court disposed

of the petition in the following terms:

“ Though the present writ petition has been filed for quashing the notices dated 11.6.2018 issued to the petitioners by the Circle Officer, Thakrahan,

District- West Champaran in connection with Encroachment Case No. 1/2015-2016, but during the interregnum period, the final order under Section-

6(1) of the Bihar Public Land Encroachment Act, 1956 has been passed by the said Circle Officer on 8.6.2018 which has been brought on record by

the respondents by way of filing of a counter affidavit.

In such view of the matter, the present petition stands disposed of with liberty to the petitioners to assail the aforesaid order dated 8.6.2018 by filing

appropriate appeal.”

Another writ petition, being C.W.J.C. No. 1804 of 2019, titled as Awadh Kishore Singh & Ors. Vs. The State of Bihar & Ors. was filed by certain

persons of the village seeking removal of encroachment and making free the public land occupied by 88 persons. It appears that the said petition

pertains to the very same area in relation to which encroachment proceedings commenced in the year 2015-2016.

The learned Single Judge, while deciding the said writ petition (C.W.J.C. No. 1804 of 2019, titled as Awadh Kishore Singh & Ors. Vs. The State of

Bihar & Ors.), while observing that the encroachment proceedings stood concluded with the passing of the order on 08.06.2018, and that the order

attained finality, directed the respondent authorities to remove the encroachments by following due process of law within a period of two weeks. It is

this order dated 08.08.2022 which stands assailed by the encroachers in the present appeals, being L.P.A. No.446 of 2022, titled as Pankaj Tiwari &

Ors. Vs. The State of Bihar & Ors.).

Learned Advocate General, while opposing these appeals, states that all encroachments have to be removed in terms of the orders passed by this

Court. Even otherwise, the State is duty-bound to protect the public property from encroachments.

Record does not reveal as to what prevented the petitioner from approaching the Court with the passing of the order in the year 2018.

Be that as it may, learned counsel for the appellants states that these appeals can be disposed of permitting the appellants to prefer appeal(s) in

accordance with law, as provided under the provisions of the Bihar Public Land Encroachment Act, 1956. He states that such appeal(s) shall be

preferred positively within next three working days and that the parties shall not take any unnecessary adjournment(s).

In the attending facts and circumstances, without expressing any opinion on merits, we permit the appellants herein to take recourse to such measure,

clarifying that if appeals are not preferred within the aforesaid period, the respondent shall continue with the process of removing the encroachments

and that, in the event of appeals being preferred, the same shall be deferred only for a period of two weeks within which period the Appellate

Authority shall positively decide the appeals on merits, be it on the issue of limitation or otherwise, facts and/or law.

Appeals stand disposed of in the aforesaid terms. Interlocutory Application(s), if any, shall stand disposed of.

Shri Bishwa Bibhuti Kumar Singh, learned AC to AG, undertakes to telephonically communicate the order.