

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(C) No. 4083 of 2020

1. Soni Devi
 2. Devi Lal
 3. Khusbu @ Khusboo Kumari
 4. Sanju Kumari
 5. Nutan Singh
 6. Prasenajit Kumar
- Petitioners

Versus

1. The State of Jharkhand
 2. The Principal Secretary, Revenue & Land Reforms, Government of Jharkhand, Ranchi
 3. The Deputy Commissioner, Ranchi
 4. The Circle Officer, Ratu Circle, Ranchi
 5. The Executive Engineer, Building Construction Department, Building Division No.1, Ranchi
 6. Lal Pravir Nath Shahdeo
- Respondents

CORAM

HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioners: Mr. Ajay Kumar Singh
For the State: Mr. Shashank Saurav, A.C to G.P-III

03/05.04.2021 The case is taken up through Video Conferencing.

The present writ petition has been filed for quashing the notices dated 28.11.2020 issued to the petitioners by the respondent No.4 in Encroachment Case No. 11/2020-21 (Annexure-3 series to the writ petition) whereby the petitioners have been directed to remove the alleged encroachment over the land appertaining to Khata No. 36, Plot No. 427, Khewat No.2, Mouza-Chatakpur, P.S. No. 148, District-Ranchi, measuring an area of 2 acres without issuing any show cause notice or providing any opportunity of hearing to them.

Learned counsel for the petitioners submits that the petitioners are in possession of the said land by virtue of different agreements dated 02.03.2020 executed between them and the respondent No.6, who is the descendent and legal heir of Late Thakur Bishwanath Shahdeo of Barkagarh Estate. The petitioners have also been permitted by the respondent No.6 to take possession of respective parts of the said land and to make construction over the same. It is further submitted that the respondent No.6 had earlier preferred the writ petition being W.P.(C) No. 5304/2013 before this Court which is still pending. The State-respondents have filed counter affidavit in the said writ petition stating inter alia that Khewat No.2 of Barkagarh Estate of the respondent No.6 has not been vested in the State under

the provisions of the Bihar Land Reforms Act, 1950 as no such proceeding has been initiated by the State Government. In view of the said fact, the land in question cannot be said to be the public land under the provisions of the Bihar (Now Jharkhand) Public Land Encroachment Act, 1956. It is further submitted that before issuance of the impugned notices dated 28.11.2020, the respondent No.4 has not provided any opportunity of hearing to the petitioners to explain their cases. It is also submitted that no final order has been passed by the respondent No.4 in pursuance of the impugned notices dated 28.11.2020.

Mr. Shashank Saurav, learned A.C to G.P-III appearing on behalf of the State-respondents, submits that the impugned notices dated 28.11.2020 issued to the petitioners clearly suggest that the land in question is public land which has been transferred by the State Government to the Department of Education for constructing centralised kitchen under 'mid-day meal scheme'.

Having heard learned counsel for the parties and keeping in view the submission of learned counsel for the petitioners that the petitioners have not been provided any opportunity of hearing by the respondent No.4 before issuing the impugned notices dated 28.11.2020, without entering into the merit of the case, the petitioners are given liberty to appear before the respondent No.4 on 19.04.2021 at 11 A.M. If the petitioners so appear before the respondent No.4 and file respective replies in the said land encroachment proceeding, the said respondent, after providing due opportunity of hearing to the petitioners/their representatives, shall pass informed order(s) in accordance with law within a period of three weeks thereafter. Till the respondent No.4 passes the said order(s), the operation of the impugned notices dated 28.11.2020 (Annexure-3 series to the writ petition) issued to the petitioners by the respondent No.4, shall be kept in abeyance.

The present writ petition is accordingly disposed of with the aforesaid liberty and direction.