

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8557 of 2017

1. Chanchal Devi @ Chanchal Devi Jain, W/o Nemichand Jain, resident of Ashram Road, Ward No. 10, Araria, P.S.- Araria, District- Araria.
2. Shobha Devi, w/o Pukhraj Jain, resident of Ashram Road, Ward No. 10, Araria, P.S.- Araria, District- Araria.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Chief Conservator of Forests, Bihar, Patna.
3. The Conservator of Forests, Purnia, Forest Circle Purnia at Purnia.
4. The Divisional Forest Officer, Araria, Forest Division Araria, at Araria.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Rabindra Nath Kanth
For the Respondent/s : Mr.Gajendra Pd.Yadav-Sc17

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL JUDGMENT

Date : 17-01-2020

Heard learned counsel for the petitioners as well as learned SC-17.

Petitioner has made following prayer:

This is an application for issuance of appropriate writ, orders and directions to the respondents, prohibiting dispossession of the petitioners from the land held by them and restraining the Respondent No. 2 to 4 from fixing demarcation and boundary line over Plot No. 3570 Khata No. 360, situated in Mauja-Haria, District-Araria, being carried out for constituting Protected Forest on the basis of Notification No. C F 17025/67-2113-R



dated 22-7-1967 issued under Section 29 of the Indian Forest Act, 1927.

This writ application is also for a direction to the Respondents to exclude the above land of the petitioners from purview of above notification dated 22-7-1967 to be categorized as Protected Forest.

Needless to say the germane of dispute is notification dated 06.11.1968 having in the Bihar Gazette that of dated 22nd July, 1967 whereby and whereunder the land so detailed therein lying within different Revenue Thanas have been declared to be part and parcel of Protected Forests in accordance with Section 29 of the Indian Forest Act. It is no gainsaying that all the lands are *Raiyati* lands. Though, Annexure-2, notification was there but, without mandatory compliance of Section 29(3) of the Indian Forest Act whereunder consent of the *Raiyat* was to be secured for the aforesaid purpose. The State became stale and allowed the private party to transact during the intervening period and, the purchasers subsequently perceiving some sort of hindrance, moved before this Court at an earlier occasion under CWJC No. 621 of 2016 which was decided on 13.01.2017 directing the State Machinery to proceed in accordance with Section 29 (3) of the Indian Forest Act before interfering with the right title and



possession even then State remained in slumber, attracting another C.W.J.C. No. 1343 of 2019 at the end of other *Raiyat* attracting the similar order/direction. This happens to be the third in its line but, from the counter affidavit having at the end of the State it is evident that the direction so given at an earlier occasion, under C.W.J.C. No. 621 of 2016 as well as 1343 of 2019 remained uncared.

That being so, the State is forbidden to pounce upon the land belonging to the petitioners bearing Plot No. 3570 corresponding to Khata No. 360 lying at village Haria, District-Araria (at an earliest Purnia) till the matter is finally settled in accordance with Section 29(3) of the Indian Forest Act so directed under C.W.J.C. No. 621/2016 as well as C.W.J.C. No. 1343/2019.

The instant petition is allowed in terms thereof.

(Aditya Kumar Trivedi, J)

rakhi/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	18.01.2020
Transmission Date	

