

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2064 of 2013

=====

Murli Rai son of Late Rajpati Rai, resident of Village - Barka Nuaon, P.S. Buxar (Muffasil), District – Buxar

.... Petitioner/s

Versus

1. The State of Bihar
2. The Divisional Commissioner, Patna Division, Patna
3. District Magistrate, Buxar
4. Deputy Collector Lands Reforms, Buxar
5. Circle Officer, Buxar, District - Buxar
6. Ekram Natt son of resident of Village - Kamarpur, P.S. Buxar (Muffasil) District – Buxar

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Dronacharya, Advocate
For the Respondent Nos.1 to 5 : Mr. Gyan Shankar, AC to GP 6
For the Respondent No. 6 : Ms. Mallika Mazumdar, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 22-05-2015

Heard the parties.

2. The petitioner has filed the present writ petition under Article 226 of the Constitution of India seeking a direction to the respondent authorities to remove the alleged encroachment made by respondent no.6 over the public passage which, according to the petitioner, is only path for ingress and egress of the petitioner and other villagers for going over their agricultural lands. The aforesaid prayer has been made in the background of the order passed by the respondent DCLR, Buxar on 08.08.2012 in Case No. 09 of 2012-13 (Annexure-2).

3. Learned counsel appearing on behalf of the petitioner submits that by the aforesaid order dated 08.08.2012, a direction was issued for removal of encroachment made by the respondent no.6 from the public land, yet order is not being implemented.

4. The matter has been contested by the learned State



counsel appearing on behalf of the respondent nos.1 to 5 and learned counsel appearing on behalf of the respondent no. 6 and they are unanimous in their submissions that, as a matter of fact, the respondent no.6 had filed a petition before the respondent DCLR, Buxar for settlement of one and half decimals more land belonged to the State of Bihar, which gave rise to Case No. 9 of 2012-13. However, according to them, the prayer made on behalf of the respondent no.6 was not allowed and the case filed by the respondent no.6 was finally rejected by order dated 08.08.2012 (Annexure-2). It is pointed out that the respondent DCLR by his aforesaid order has directed the respondent no.6 to remain confined within the land already allotted to him.

5. It is contended on behalf of the respondents that the respondent no.6 has not encroached upon any public land and therefore, the prayer made on behalf of the petitioner is completely misconceived. It is also pointed out that, in fact, by the aforesaid order dated 08.08.2012, the prayer for further settlement of land in favour of the respondent no.6 was rejected and therefore, the petitioner cannot have any valid grievance against the said order, as no further land has been settled in favour of the respondent no.6.

6. After having heard the parties, this Court finds that no finding is recorded in the order dated 08.08.2012 that the respondent no.6 has encroached upon any public land. Furthermore, if any public land has been encroached upon either by the respondent no.6 or any other person, the petitioner has efficacious and alternative remedy under Bihar Public Land Encroachment Act, 1956 and for that he is required to approach the competent authority for passing appropriate order.

7. In above view of the matter, the prayer made on

behalf of the petitioner cannot be countenanced. The writ petition is completely misconceived and is, accordingly, dismissed.



Tahir/-

U			
---	--	--	--

(Birendra Prasad Verma, J)