

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11363 of 2014

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Bhim Raj Singh, son of Shri Rajendra Prasad Singh, resident of Village and Anchal- Chongai, P.S. Murar, District - Buxar

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Bihar Land Reforms Deptt., Bihar, Patna
2. The Principal Secretary, Department of Land Reforms, Bihar, Patna
3. The Collector, District Buxar
4. The Additional Collector, Buxar
5. The Deputy Collector, Land Reforms, Buxar
6. The Circle Officer, Chongai, District - Buxar

.... Respondents

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Appearance :

For the Petitioner : Mr. Baidyanath Prasad, Advocate
For the Respondents : Mr. Anjani Kumar, AAG-6
Mr. Sunil Kumar, A.C. to AAG-6

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE I. A. ANSARI

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

6 05-01-2015 The petitioner is a resident of Village and Anchal Chongai within the district of Buxar. He filed the writ petition in public interest with a prayer to direct the respondents herein to remove the encroachment over the public lands measuring 52 Acres in his village. It is submitted that though survey had taken place sometimes in the year 1959, valuable and public lands have been encroached.

On receipt of the notice, respondents have filed counter affidavit. They have furnished particulars of various pieces of

lands in the village. It is stated that in case the lands are encroached, steps are being taken to remove the encroachment.

Heard Mr Baidyanath Prasad, learned counsel for the petitioner, and Mr. Anjani Kumar, learned Additional Advocate General No.6, for the respondents.

We find a basic serious defect in the writ petition. The petitioner seeks direction against the respondents for removal of the encroachment over 50 Acres of land. Unless the persons, who are said to be encroachers, are named and made parties, effective adjudication cannot take place. The nature of rights, which a person has in respect of the land, could be determined only in his presence. Any amount of record placed before this Court in a public interest would not be a substitute for the presence of a person, who is said to have encroached the land. It is only then, that he would be in a position to establish the nature of his rights.

We hereby direct the Registry not to accept any public interest litigation wherever the allegations of encroachment are made unless the so-called encroachers are made parties to the writ petition.

Coming to the merits of the matter, the petitioner, no doubt, asserts that the Government lands are encroached. However, particulars furnished by the Government disclose that in

the course of revisional survey, settlement has been made in favour of the private individuals. At any rate, the Government has come forward with a proposal to remove the encroachment.

We, therefore, dismiss this writ petition, taking on record the statement made on behalf of the Government.

Interlocutory application, if any, shall also stand disposed of. There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(I. A. Ansari, J)

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