

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4081 of 2015

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Md. Naimuddin son of Late Khursed Ali Resident of Village - Kantadih, P.S. - Kadewa, Dist - Katihar.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of Land Reform, Govt. of Bihar.
2. The District Magistrate, Katihar.
3. The Sub-Divisional Magistrate, Katihar.
4. The Circle Officer, Kadawa, Katihar.
5. The District Settlement Officer, Katihar.
6. Union of India through the Secretary, Department of Road Transport and Highways, Purnia, Bihar

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Sabal Kumar Jha, Advocate
For the U.O.I.	:	Mr. S.D. Sanjay, A.S.G.
For the State	:	Mr. Manoj Kumar Jha, A.C. to G.P. 26
For the Intervener	:	Mr. Sanjeev Kr. Singh, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 04-11-2015

Petitioner is permitted to implead the Union of India through the Secretary, Ministry of Road Transport and Highways as respondent no.6.

Heard learned counsel for the petitioner, the State, the Additional Solicitor General for the Union of India as well as the intervener who has filed I.A. No.6886 of 2015.

Petitioner's grievance is that the lands of khesra nos.242, 243 and 244 have been recorded in the records of rights belonging to the Union of India and through which national highway 58 is passing.

It is contended that several persons have encroached upon the lands contiguous to the national highway which is obviously its part. He further submits that the matter has been brought to the notice of the District Magistrate, Katihar by filing representation but nothing has been done till date for removal of encroachment.

I.A. No.6886 of 2015 has been filed on behalf of Hussain Ali and Anisur Rahman taking a stand that the land does not belong to the petitioner and the proceeding has already been initiated by the Circle Officer, Kadwa bearing case no.1/15-16 on the complaint of the writ petitioner. They have admitted that the land of new khata no.232 of plot nos.242, 243 and 244 are part of the national highway 54 and the intervenors and other landless labourers have actually not encroached upon the road or its flank but they have constructed their house in a ditch adjacent to the road and its flank, however, the same is also a public land.

Learned A.S.G., who appears for the Union of India, has also submitted that any part of the public land or part of the National Highway or its flank should be made encroachment free.

In my view, nobody has any authority to encroach upon the public or Government land what to say about the public land belonging to the road or national highway or its flank. However, since proceeding has already been initiated bearing encroachment case

no.1/15-16, let the same be brought to its logical conclusion by the respondent no.4 in accordance with law after granting reasonable opportunity to all the concerned persons within a period of four months. This is made clear that the encroachment proceeding should not be confined to one or two persons rather it should be the entire land of the aforesaid plots.

This disposes of the writ petition.

Let notice be also issued to the Project Manager, National Highways Authority, Purnia in the concerned encroachment case.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

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