

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3689 of 2017

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Upendra Prasad Singh, Son of Late Ram lochan Singh, Resident of Village-
Nuniyadih, P.O.-Mahmmada, P.S.-Baruraj, District-Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar, through Secretry Rural Works Department, Govt. of Bihar, Patna.
2. The District magistrate Cum-Collector, Muzaffarpur
3. THe Sub-Divisional Officer, West Muzaffarpur.
4. The Circle Officer, Block-Motipur, Muzaffarpur
5. The Senior Superintendent of Police, Muzaffarpur
6. The Officer in Charge of Baruraj Police Station, Baruraj, Block Motipur, Muzaffarpur
7. Shankar Patel @ Shankar Rai, Son of Late Vishwanath Rai, Resident of Village-Nuniyadih, P.O.-Mahmmada, P.S.-Baruraj, Block-Motipur, District-Muzaffarpur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Yugal Kishore
For the Respondent/s : Mr. SMT. ARCHANA MEENAKSHEE- GP6

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 24-11-2017 Heard Mr. Yugal Kishore, learned counsel for the

petitioner and Mr. Harish, learned AC to GP-6, for the

respondent-State.

In view of the nature of order this Court intends to pass and
also in view of the fact that though the writ application was filed
as far back as on 08.03.2017, no counter affidavit has been filed
till date, this Court is neither inclined to adjourn the matter any
further for filing counter affidavit, nor to issue notice to private
respondent no.7.

The present writ application has been filed for a direction



to the respondent authorities to get the encroachment removed from the land appertaining to Khata No. 472, Plot No. 1692, situated in Village Nuniyadih, District Muzaffarpur.

It is submitted by learned counsel for the petitioner that the land in question is a 'Gairmajarua Aam' land and same is being used by public at large, but the same has been encroached upon by private respondent no. 7. For removal of encroachment, the petitioner submitted an application before respondent no.4, the Circle Officer, Motipur on 21.09.2016, as contained in Annexure-1. Consequently, respondent no.4, the Circle Officer, Motipur, vide Memo No. 1530, dated 29.09.2016, as contained in Annexure-2, directed private respondent no.7 to be present in his office on 06.10.2016 with all documentary evidence in support of his claim over the public land in question, but the private respondent no.7 did not appear. However, vide memo No. 1529, dated 29.09.2016, as contained in Annexure-3, respondent no.4, the Circle Officer, Motipur directed the Officer-in-Charge, Baruraj Police Station to take appropriate action since private respondent no.7 is constructing house on the land in question, which is a government land, but till date neither any proceeding under the Bihar Public Land Encroachment Act (hereinafter referred to as 'the Act') has been



initiated nor the encroachment has been removed. Hence, the present writ application.

Learned AC to GP-6 submits that at present, he is not having any instruction whether any encroachment under the Act has been initiated or not, or whether the encroachment has been removed or not.

Considering the rival submissions of the parties, this Court is of the view that for initiation of proceeding under Section 3 of the Act, it should appear to the Collector under the Act from an application made by any person or upon information received from any sources, that any person has made or is responsible for the continuance of any encroachment upon any public land.

No doubt, in the present case, as far back as on 21.09.2016, the representation was submitted by the petitioner before respondent no.4, the Circle Officer, Motipur, as contained in Annexure-1, and subsequently, he took cognizance of the same and issued notice to the private respondent no.7, vide Memo No. 1530, dated 29.09.2016, as contained in Annexure-2, and thereafter, vide Memo No. 1529, dated 29.09.2016, as contained in Annexure-3, directed the Officer-in-Charge, Baruraj Police Station to take action for illegal construction over the land in question, but there is nothing on record to suggest that any



proceeding for removal of encroachment from the land in question, has been initiated under the Act.

In the circumstances, it is expected from respondent no.4, the Circle Officer, Motipur to verify the Revenue Records and if need be, conduct spot verification thereupon if it appears to him that the land in question is a public land and the same has been encroached upon, then he shall initiate a proceeding under the Act forthwith, if it has already not been initiated till date, and take the same to its logical conclusion within a period of three months from its initiation, after giving due opportunity of hearing to all affected persons, in accordance with the provisions of the Act.

Accordingly, with the above observation and direction, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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