

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4354 of 2017

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Ram Nageshwar Choudhary, Son of Ram Iqbal Choudhary, R/o Vill- Chainpur,
Anchal+P.S.- Chhouradano, District- East Champaran, Motihari.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Land Reforms Department, Govt. of Bihar, Patna.
2. The District Magistrate/Collector, East Champaran, Motihari.
3. The Sub-Divisional Magistrate, Raxoul District- East Champaran, Motihari.
4. The Circle Officer, Chhouradano, East Champaran, Motihari.
5. Sri Jata Paswan, Son of Jhagaru Paswan,
6. Sri Bindeshwari Paswan, Son of Sarjug Paswan,
7. Sri Jalandhar Paswan, Son of Sarjug Paswan, All R/o Vill- Chainpur,
Anchal+P.S.- Chhauradano, Dist- East Champaran, Motihari.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Adv.
Mr. Dhananjay Kumar Gupta, Adv.

For the Respondent/s : MD Asif Kalim, A.C. to AAG12

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date: 03-04-2017

Heard learned counsel for the petitioner and learned
A.C. to A.A.G.-12 for respondent nos. 1 to 4.

The present writ application has been filed for a
direction to the respondent authorities for removal of encroachment
from the Gairmazarua land appertaining to Khata No. 114, Plot No.
537, Khata No. 115, Plot No. 540 which is being used as Aam Rasta.

It is submitted by the learned counsel for the petitioner
that the land appertaining to Khata No. 114, Plot No. 537, Khata No.
115, Plot No. 540 being 'Aam Rasta' is recorded in the revenue record



as *Gairmazarua* land but the same has been encroached by respondent nos. 5 to 7 as a result the road has been blocked.

It is further submitted that the petitioner submitted an application on 17.05.2013, as contained in Annexure-1, before the Circle Officer, Chhouradano, respondent no.4 for removal of encroachment. In pursuance to the application of the petitioner, Circle Officer, Chhouradano, respondent no.4 initiated Encroachment Case No. 09 of 2013-14 and called for a report from Halka Karamchari and Circle Amin. The Circle Amin submitted a report dated 01.10.2013, as contained in Annexure-2, which suggests that in pursuance to the order of the Circle Officer, Chhouradano, respondent no.4, the Circle Amin inspected the land in question and found that the Plot No. 454, 542 and 543 are situated in front of Plot No. 537 and 540 which is '*Gairmazarua*' land and the same has been encroached by Jata Paswan, Jalandhar Paswan and Bindeshwari Paswan, respondent nos. 5 to 7 by constructing huts, fixing hand-pump and cattle shed, hence recommended for taking action after examination of the revenue records by the Halka Karamchari.

Consequently, respondent no.4, vide order dated 20.05.2013 passed in Encroachment Case No. 09 of 2013-14 directed for calling a report from Halka Karmchari, Circle Amin and Circle Inspector and for placing the records. Vide order dated 21.11.2013,



respondent no.4 issued notice to the encroachers seeking explanation as to why encroachment should not be removed through police force. Thereafter, vide order 10.01.2014 again notice was issued and vide order 14.02.2014, the respondent no.4 directed for deputation of Circle Inspector as Executive Magistrate and also directed for requesting the Officer-In-Charge, Chhauradano for making available the police force and directed the Halka Karmchari and Circle Amin to be present on the spot. Despite such development, till date encroachment has not been removed. Saryug Paswan and others filed a petition under the Land Dispute Resolution Act, 2009 before the D.C.L.R., Raxaul leading to registration of Case No. 39 of 2014, as contained in Annexure-4, but the D.C.L.R., Raxaul vide order dated 07.06.2014 dropped the proceeding of the said case on the ground that Encroachment Case No. 09 of 2013-14 is going on, hence no interference can be drawn. Thereafter, in pursuance to the order of the D.C.L.R., the Circle Officer, Chhauradano, respondent no.4 vide Memo No. 364 dated 08.04.2015 directed the In-Charge Circle Inspector, Chhauradano to be present on spot on 20.04.2015, even then the encroachment has not been removed.

Learned A.C. to A.A.G.-12 submits that the encroachment proceeding has been initiated and order has been passed for removal of the encroachment, though he is not controverting this



fact that encroachment has not been removed.

Considering the rival submissions of the parties, this Court is dismayed at the pathetic approach of the authorities, in as much as the encroachment proceedings are being kept pending for years. In the present case, Encroachment Case No. 09 of 2013-14 was initiated in the year 2013 but till date it has not been concluded. The order of the Circle Officer, Chhauradano, respondent no.4 passed under the Bihar Public Land Encroachment Act (herein after called “the Act”) reflects that the same has been passed without following the provisions of the Act. The entire ordersheet does not reflect that even notice in form-I under Section 3 was issued, when the final order was passed under Section 6 of the Act and when the notice under Form-II under Section 6(2) of the Act was issued. This reflects the callous manner in which the encroachment proceedings are being conducted by the Circle Officer and the Collector.

In the circumstances, the District Magistrate, East Champaran, respondent no.2 is directed to ponder over the issue of encroachment proceedings pending in the District and take an earnest effort to get them disposed of within a reasonable time frame. It is further expected from respondent no.2 to see that the present encroachment proceeding being Encroachment Case No. 09 of 2013-14 gets concluded by respondent no.4 within a period of three months



from the date of receipt/production of the copy of this order.

With the above observation, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	22/04/2017
Transmission Date	N/A

