

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5115 of 2017

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Arjun Thakur S/o Lakshmi Thakur Resident of Village - Bariyarpur, P.S. - Warisnagar, District - Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Samastipur.
2. The District Magistrate, Samastipur.
3. The Sub-Divisional Officer, Samastipur.
4. The Circle Officer, Warisnagar, District - Samastipur.
5. Rajesh Kumar Sahni Son of late Ram Lakhan Sahni R/o at +P.O. Gohi, P.S.- Warisnagar, District - Samastipur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mrityunjay Kumar, Advocate

For the Respondent/s : Mr. Sajid Salim Khan, SC-25

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 24-11-2017

Heard Mr. Mrityunjay Kumar, learned counsel

for the petitioner and Mr. Sajid Salim Khan, learned Standing Counsel-25 for respondent nos. 1 to 4.

In view of the nature of the relief prayed for and the nature of order this Court intends to pass, this Court is not inclined to adjourn the matter any further for filing of counter affidavit or for issuance of notice to private respondent no. 5.

The present Writ application has been filed for a direction to the respondent authorities to get the encroachment removed from a public road which runs from Warisnagar to Kishanpur which is part of the Gohi road situated in Warisnagar in



the district of Samastipur.

It is submitted by learned counsel for the petitioner that the public road has been encroached upon by respondent no. 5. A public petition has been submitted before respondent no. 4, Circle Officer, Warisnagar, as far as back on 19.11.2016, as contained in Annexure-1. Thereafter, the petitioner again submitted an application on 28.12.2016, as contained in Annexure-2, but when no action has been taken for removal of the encroachment, the petitioner submitted an application before respondent no. 2, District Magistrate, Samastipur on 12.01.2017, as contained in Annexure-3, but till date nothing has been done for redressal of the grievance of the petitioner.

Learned SC-25 submits that the writ application does not depict the specification of the road in question, hence, he is unable to submit that whether road in question is a public road or not, or whether any proceeding has been initiated, or if initiated, whether it has been concluded or not.

Considering the rival submissions of the parties, for initiating a proceeding under Bihar Public Land Encroachment Act, 1956 (hereinafter called as the 'Act'), the only pre-condition under Section 3 of the Act is that 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 encroachment upon any public land.

In the circumstances, respondent no. 4, Circle Officer, Warisnagar is directed to examine the revenue records in pursuance to the representation, as contained in Annexure-1, and if need be conduct spot verification and thereafter, if, it appears to him that the public land/road has been encroached upon by respondent no. 5, then he will initiate a proceeding forthwith, if it has not been initiated till date and will take such proceeding to its logical conclusion within a period of three months from the date of receipt/production of a copy of this order, after giving due opportunity of hearing to all the affected persons under the provisions of the Act.

Accordingly, this Writ application is disposed of.

(Dinesh Kumar Singh, J)

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