

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3371 of 2017

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Bharat Singh, Son of Late Prabodh Singh, Resident of Village Kharika, P.S. Sonepur, in the District of Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue & Land Reforms, Government of Bihar, Patna.
2. The District Magistrate, Cum Collector, Saran, Chapra.
3. The Circle Officer, Sonepur, Saran.
4. The S.H.O Sonepur, Saran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Braj Nandan Kumar Tiwary
For the Respondent/s : Mr. MD.KHURSHID ALAM-AAG12

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 23-11-2017

Heard learned counsels for the parties.

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 2.3.2017 but till date no counter affidavit has been filed, this Court is neither inclined to adjourn the matter for filing counter affidavit nor to issue notice to respondent no. 6.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the public road situated at Kharika Bazar under Sonepur Circle, District – Saran.

It is submitted by learned counsel for the petitioner that there is a public road situated in Kharika Bazar under Sonepur Circle which



has been encroached upon by several persons between the house of Chandan Bhagat, Bam Bahadur Bhagat and others. For removal of said encroachment, a public petition dated 29.12.2012, as contained in Annexure 1, was filed by the villagers before the respondent no.3, the Circle Officer, Sonapur. Thereafter, on the said application dated 29.12.2012, the respondent no.3, the Circle Officer, Sonapur sought a report from the Circle Inspector, Sonapur. On 20.1.2013, the Circle Inspector, Sonapur submitted a report, as contained in Annexure 2, to the effect that in the village Kharika there is a market known as Kharika Bazar and adjacent to the same, there is a burial ground and adjacent south to the burial ground, there is a public road which is used by the villagers but the same has been encroached upon and has been completely obstructed.

Consequently, the respondent no.3, the Circle Officer, Sonapur vide Memo No. 138 dated 18.2.2013, as contained in Annexure 3, directed the Circle Inspector as well as the Officer-Incharge of Sonapur Police Station to get the encroachment removed, but till date no encroachment has been removed.

Learned counsel for the respondents submits that he is not having any instruction at present, whether any encroachment proceeding has been initiated or the encroachment has been removed or



not. However, he is not in a position to dispute the fact that the land in question is a public road.

Having heard learned counsels for the parties, this Court is of the view that though specific description of the land has not been pleaded in the writ petition nor the alleged encroachers have been made party respondents, but for initiating a proceeding under the Bihar Public land Encroachment Act (hereinafter referred to as the 'Act'), it should appear to the Collector under the Act from an application made by any person or upon the information received from any source that any person has made or is responsible for the continuation of encroachment upon any public land.

No doubt, in the present case, representation was submitted before the respondent no.3, the Circle Officer, Sonapur as far back as on 29.12.2012 and the Circle Officer sought a report from the Circle Inspector who submitted a report on 20.1.2013 stipulating therein that there is public road and encroachment has been made but there is nothing on record to suggest that any proceeding has been initiated under the Act.

In the circumstances, the respondent no.3, the Circle Officer, Sonapur is expected to examine the issue and if need be, conduct spot verification and on doing so, if it appears to him that the public land has been encroached upon, then he will initiate the proceeding under the



Act within two weeks of the receipt/production of a copy of this order and will take such proceedings to its logical end within a period of three months thereafter, after giving due opportunity of hearing to all affected persons in accordance with the provisions of the Act.

This writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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CAV DATE	
Uploading Date	
Transmission Date	

