

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8315 of 2017

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Janardhan Singh, Son of Late Raj Banshi Singh, Resident of Mohalla - Narainapur, Ward No. - 5, Bagha Nagar Parishad, P.S. - Bagha, Dist. - West Champaran.

.... Petitioner

Versus

1. The State of Bihar through the District Magistrate, West Champaran at Bettiah.
2. Sub Divisional Magistrate, Bagha, Dist - West Champaran.
3. Circle Officer, Bagha Anchal, Dist. - West Champaran.
4. S.H.O. Baghal Police Station, Dist. - West Champaran.
5. Pramod Singh, Son of Radhey Saran Singh
6. Ajay Dharikar, Son of Late Hari Dharikar
7. Sunil Dharikar, Son of Late Hari Dharikar
8. Bhadai Ram, Son of Late Mangal Ram
9. Sanjay Sahni, Son of Sugriv Sahni
10. Dukhu Sahni, @ Subash Sahni, Son of Late Swami Nath Chaudhary, all Sl. Nos. 5 to 10 are Residents of Mohalla - Narainapur, Ward No. - 5, Baghal Nagar Parishad, P.S. - Baghal, Dist - West Champaran.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Singh, Adv.
For the Respondent/s : Mr. Sajid Salim Khan -SC25

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 30-08-2017 Learned counsel for the petitioner is permitted to make necessary correction.

Heard Mr. Binod Kumar Singh, learned counsel for the petitioner and learned A.C. to S.C.-25 for the official respondents.

In view of the nature of order this Court intends to pass, this Court is not inclined either to adjourn the matter further or to issue notice to private respondent nos. 5 to 10.

The present writ application has been filed for a



direction to the respondent authorities for removal of the encroachment made by the respondent nos. 5 to 10, over the public road appertaining to Plot No. 63, Khata No. 4, Thana No. 144, situated in Mauja Narainpur, District West Champaran, which is recorded in the revenue record as Gairmajarua Malik land.

It is submitted by learned counsel for the petitioner that the land in question is recorded in the revenue record as Gairmajarua Malik land and the same is being used by the public at large as 'Rasta', but the same has been encroached upon by private respondent nos. 5 to 10. The petitioner and one Hari Om Prasad submitted an application before respondent no.2, the Sub-Divisional Magistrate, Bagha on 20.07.2016, as contained in Annexure-1, with a prayer for initiating a proceeding under Section 133 of the Cr. P.C., but the same has not been initiated till date and due to inaction of the respondent authorities, the encroachment has also not been removed.

Learned A.C. to S.C.-25 submits that from the pleadings of the petitioner, it does not appear that the petitioner submitted any application before respondent no.3, the Circle Officer, Bagha for initiating any proceeding under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act'). It is further submitted that at present, she is not in a



position to controvert the contention of the petitioner that the land in question is a public land.

Having heard the learned counsels for the parties, from the pleadings of the petitioner, it does not appear that the petitioner made any application before respondent no.3, the Circle Officer, Bagha for redressal of his grievance.

In the circumstance, the petitioner is at liberty to submit an application before respondent no.3, the Circle Officer, Bagha, giving details of the encroachment made and the documents with regard to nature of land recorded in the revenue records, within a period of three weeks from the date of receipt/production of the copy of this order, whereupon, if it appears to respondent no.3, the Circle Officer, Bagha that the encroachment has been made on the public land/road, then he will initiate a proceeding under the Act forthwith, if it has not already been initiated and will take the same to its logical conclusion after giving due opportunity of hearing to all the affected persons, in accordance with the provisions of the Act.

Accordingly, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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