

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8884 of 2017

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Jitendra Kumar, son of Sri Surendra Kumar Singh, resident of Village, Basuhar, P.S.-Poonpooon, District- Patna, at present residing at Mohalla Sipara, Near Mother Teresa High School, P.S.- Beur, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. District Magistrate, Patna
3. Sub-Divisional Officer, Patna
4. Senior Superintendent of Police, Patna
5. Circle Officer, Phulwarisarif Circle, Patna
6. Officer In-charge, Beur Police Station, Phulwarisharif, Patna
7. Krishan Murari, son of late Suryug Singh, resident of Village-Sipara, P.S.-Beur, District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. D. K. Sinha, Sr. Adv.

For the State : Md.Khurshid Alam-AAG-12

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 06-07-2017 Heard learned counsel appearing on behalf of the petitioner and learned AC to AAG-12 appearing on behalf of the respondent State.

The present writ application has been filed for a direction to the respondent authorities to remove the encroachment made by Respondent No.7 over the government lane, due to which the ingress and egress of the petitioner from his house, has been blocked.

Learned Sr. Counsel for the petitioner, at present, confines his prayer only to the extent that the representation



submitted to Respondent No.5, the Circle Officer, Phulwarisarif, Patna, through registered post on 17/05/2017 may be disposed of and if it is found that there is encroachment on public lane, then appropriate proceeding be initiated and be taken to its logical conclusion.

Learned Sr. Counsel for the petitioner further submits that the petitioner constructed his house over his purchased Plot No.218, Khata No.75, Tauzi No.5204, Revenue P.S. No.27, measuring an area 409.5 sq. ft., P.S.-Phulwarisarif, now Beur, in the District of Patna and there is 4 ft. wide public lane which is the only approach path to the house of the petitioner, but the same has been encroached by Respondent No.7. The petitioner tried to submit representation to Respondent No.5, the Circle Officer, Phulwarisarif, and Respondent No.2, the District Magistrate, Patna, but they declined to accept the same, as a result the petitioner, transmitted the representation to Respondent No.5 through registered post on 17/05/2015, as contained in Annexure-1. Subsequently, the Officer In-charge, Beur Police Station recommended for initiation of proceeding under section 107 of the Code of Criminal Procedure.

Learned AC to AAG-12 appearing on behalf of the respondent State submits that, at present, he does not have any objection, if the writ application is disposed of with a direction to



the respondent authorities to dispose of the representation of the petitioner for initiation of proceeding under the Bihar Public Land Encroachment Act (hereinafter called the Act).

Having heard learned Counsel for the parties, this Court is not inclined to issue notice to private respondent, in view of the order, this Court intends to pass.

Section 3(1) of the Act stipulates that a proceeding can be initiated either on 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.

In the present case, no doubt, the representation was transmitted to the Respondent No.5, the Circle Officer, Phulwarisarif, through registered post, as contained in Annexure-1, but till date no action has been taken.

Under the circumstances, Respondent No.5, the Circle Officer, Phulwarisarif, is directed to dispose of the representation of the petitioner transmitted through registered post, within a period of four weeks of receipt/production of a copy of this order. If Respondent No.5 arrives at a conclusion that the encroachment has been made on a public lane, then appropriate proceeding should be initiated under Section 3 of the Act within a period of three weeks thereafter, provided such proceeding has



already not been initiated, and take such proceeding to its logical conclusion within a period of four months, after giving due opportunity of hearing to all the affected person, in accordance with the provisions of the Act.

Accordingly, the writ application is disposed of.

(Dinesh Kumar Singh, J)

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