

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9660 of 2017

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Rampat Rai, Son of Late Musa Rai, resident of village- Bathna, P.O.-
Siswa, P.S. Banjariya, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Revenue Department, Bihar at Patna.
2. The District Magistrate, East Champaran at Motihari.
3. The Sub-Divisional Magistrate, Motihari, District- East Champaran.
4. The Anchaladhikari, Banjariya Anchal, District East Champaran.
5. Ramanand Rai, Son of Late Bhikhar Rai, resident of Village- Bathna, P.O. Siswa, P.S Banjariya, District- East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma
For the Respondent/s : Mr. Rishi Raj Sinha-Sc19

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 14-12-2017

Heard learned counsel for the petitioner and Mr.

Saurabh Kumar, learned AC to SC-19.

The Writ application was filed on 12.07.2017 but no counter affidavit has been filed till date. Moreover, in view of the nature of order this Court intends to pass, this Court is not inclined to adjourn the matter or issue 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 the public road from Kunwari Devi Chowk, Motihari to Katahan Chowk, as in front of the public road, the



petitioner's land appertaining to Khata No. 664, Plot No. 437 in Mauza – Siswa, Circle – Banjariya, District – East Champaran is situated and due to the encroachment made by respondent no. 5 the petitioner's egress and ingress has been blocked. However, a public petition was submitted before the respondent no. 2, District Magistrate, East Champaran on 29.03.2017, as contained in Annexure-1 and before respondent no. 4, Circle Officer, Banjariya on same day, as contained in Annexure-2, but till date no action has been taken for removal of the encroachment and hence, the present Writ application.

Learned counsel for the State-respondents submits that, at present, he is not having any instruction whether the land in question is public land or not or whether any proceeding has been initiated under Bihar Public Land Encroachment Act or not. However, he further submits that if it appears to the Circle Officer that the public land has been encroached upon, he shall initiate a proceeding under Bihar Public Land Encroachment Act, if it has already not been initiated and the same shall be concluded within a time frame.

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 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. It is not in dispute that in the present case, a public petition has been submitted on 29.03.2017 but there is nothing on record to suggest that any proceeding has been initiated or any action has been taken by the Circle Officer, till date.

In the circumstances, it is expected from respondent no. 4, Circle Officer, Banjariya to examine the revenue records and if need be make spot verification, whereupon if it appears to him that the public land has been encroached upon, then he will initiate a proceeding forthwith, if the same has already not been initiated, and take to its logical conclusion within a period of three months, after giving due opportunity of hearing to all affected persons including respondent no. 5 under the provisions of the Act.

Accordingly, this Writ application is disposed of.

(Dinesh Kumar Singh, J)

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