

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1398 of 2017

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Chhotelal Yadav @ Chhotelal Choudhary, Son of Vikarma Choudhary, Resident of
Village- Tulsiya, P.S.- Uchkagaon, Distt.- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Development
Department, Government of Bihar, Patna.
2. The District Magistrate, Gopalganj.
3. The Circle officer, Uchkagaon, Gopalganj.
4. The S.H.O. Uchkagaon, P.S. Gopalganj.
5. Munni Choudhary, Son of late Ganesh Choudhary, Resident of Village-
Tulsiya, P.S.- Uchkagaon, District- Gopalganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Milind Kumar Mishra, Adv.

For the Respondent/s : Mr. RAJ KISHORE ROY-GP18

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 01-08-2017

Heard Mr. Milind Kumar Mishra, learned Counsel
appearing on behalf of the petitioner and Mr. Raj Kishore Roy,
learned GP-18, appearing on behalf of Respondent Nos. 1 to 4.

Since, the writ application was filed on 28.01.2017, but
the counter affidavit has not been filed till date, this Court is not
inclined to adjourn the matter any further. However, in view of the



relief prayed for, this Court intends to pass such order which does not require issuance of notice to the private respondents.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the public land, made by Respondent No.5, pertaining to Thana No.825, Khata No.111, Plot No.328, situated in the Village-Tulsiya, P.S.-Uchkagaon, District-Gopalganj.

It is submitted by learned Counsel appearing on behalf of the petitioner that the land in question is a public road, which is being used by the petitioner as well as the villagers at large, but the same has been encroached upon by Respondent No.5, as a result, the ingress and egress of the petitioner has substantially been impeded, since the petitioner's residential house is situated adjacent to the land in question. The petitioner submitted a representation before Respondent No.3, the Circle Officer, Uchkagaon, specifying the manner in which the public land has been encroached by Respondent No.5, as contained in Annexure-1. On the representation of the petitioner, after spot inspection and verification of revenue record, a report was submitted on 23.09.2015 by the Halka Karmchari, wherein, it has been stated that the land in question is 'Gairmajarua Aam Rasta', which has been encroached by respondent no.5, as contained in Annexure-2, hence the Halka Karmchari recommended for removal



of encroachment after getting the measurement done. Though, initially the encroachment has been removed without initiation of encroachment proceeding, but the same has resurfaced. The petitioner also submitted a representation on 02.06.2016, before Respondent No.2, the District Magistrate, Gopalganj, as contained in Annexure-4, whereupon, the District Magistrate directed the Circle Officer to take action, but till date the encroachment has not been removed. Hence, the present writ application.

Learned Counsel appearing on behalf of the respondent-State submits that at present, he does not have any instruction as to whether any encroachment proceeding has been initiated or encroachment has been removed.

Considering the rival submission of the parties, the writ application is disposed of with a direction to Respondent No.3, the Circle Officer, Uchkagaon, to dispose of the representation dated 09.09.2015, as contained in Annexure-1, within a period of three weeks from the date of receipt/production of a copy of this order, if it has already not been disposed of. *Prima facie*, if it is found that there is encroachment on the public road then appropriate proceeding be initiated under the provisions of the Bihar Public Land Encroachment Act (hereinafter referred to as the 'Act'), if it is already not initiated and the same should be taken to its logical conclusion within a period



of four months, after giving due opportunity of hearing to all the affected persons, in accordance with the provisions of the Act.

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

