

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9677 of 2017

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Brajesh Yadav @ Brajesh Kumar Yadav, Son of Sri Tej Narayan Yadav,
R/o-Vill-Barahana, P.S.-Itadhi, Distt.-Buxar,

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Revenue and Reforms Department, Patna, Bihar.
2. The District Magistrate, Buxar
3. The Sub-Divisional Magistrate, Dumaron, Buxar,
4. The Land Reforms Deputy Collector, Buxar,
5. The Circle Officer, Itadhi, Buxar,
6. The Thana-in-Charge, Itadhi, Buxar,
7. Shiv Darash Pandit, S/o Late Kanhaya Pandit
8. Angad Pandit, S/o- Late Kanhaya Pandit
9. Pankaj Pandit, S/o-Sri Shiv Darash Pandit, all are R/O-Vill-Barahana, P.S.-Itadhi, Distt.-Buxar.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rajiv Ranjan Kr. Pandey, Adv.
For the Respondent/s : Mr. Md.Khurshid Alam, AAG-12

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 22-08-2017 Learned counsel for the petitioner is permitted to make necessary correction in the petition.

Heard Mr. Rajiv Ranjan Kumar Pandey, learned counsel for the petitioner and Mr. Nasim Mukhtar, learned A.C. to A.A.G.-12 for respondent nos. 1 to 6.

Since the present writ application was registered on 12.07.2017, and till date, no counter affidavit has been filed, this Court is not inclined to adjourn the matter any further.

The nature of order, this Court intends to pass, does



not require issuance of notice to private respondent nos. 7 to 9.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the land appertaining to Khata Nos. 123 and 124, Plot Nos. 222 and 224, situated at Village Barahana, P.S. Itadhi, District Buxar, which is recorded in revenue record as Anabad Bihar Sarkar.

Learned counsel for the petitioner submits that though, prayer has been made in the Writ application for disposal of Case No. 68 of 2013, whereby a proceeding under Section 133 of the Cr. P.C., was instituted, which is pending before respondent no.3, the Sub-Divisional Officer, Dumrao, but at present, the petitioner confines his prayer to the extent for a direction to respondent no.5, the Circle Officer, Itadhi to initiate a proceeding under the provisions of Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') and for disposal of the same within a reasonable time frame.

It is further submitted that in Case No. 68 of 2013, respondent no.5, the Circle Officer, Itadhi submitted an enquiry report dated 30.07.2013, as contained in Annexure-2, to respondent no.3, the Sub-Divisional Officer, Dumrao wherein, it has been stipulated, on the basis of the enquiry report of the



Revenue Karamchari as well as Circle Inspector, that Plot No.222 has been recorded in the Revenue Records, as Anabad Bihar Sarkar, whereas, Plot No. 224 has been recorded as Anabad Sarv Sadharan-Parti land. Hence, though, a public land has been encroached upon, but till date no proceeding under the Act has been initiated. Hence, the present writ application.

Learned A.C. to A.A.G-12 submits that at present he does not have any instruction whether any proceeding under the Act has been initiated or not, but he submits that it will be initiated forthwith and will be taken to its logical conclusion within a time frame.

Considering the rival submission of the parties, this Court is of the view that for initiation of proceeding under Section 3 of the Act, the only precondition is that it should appear to the Collector under the Act from an application made by any person or upon information received from any source that any person has made or is responsible for the continuation of any encroachment upon any public land. In the present case, the respondent authorities had ample material on record to acknowledge that the public land in question has been encroached upon, particularly when respondent no.3, the Sub-Divisional Officer, Dumrao had initiated a proceeding under Section 133 of the Cr. P.C.,



particularly on getting the report of respondent no.5, the Circle Officer, Itarhi in Case No. 68 of 2013 dated 20.01.2014, but even then there is nothing on record to suggest that any such proceeding under the Act has been initiated with regard to the land in question.

In the circumstances, it is expected from respondent no.5, the Circle Officer, Itarhi to initiate a proceeding under the Act forthwith, if it appears to him from the record that the land in question is a public land, which has been encroached upon and to take the said proceeding to its logical conclusion within a period of three months from its initiation, 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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