

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11352 of 2017

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Birendra Sah, S/o Balershwah Sah, R/o Village Malinagar, P.S.- Chakmahes,
Distt- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. That Collector, Samastipur.
3. The Circle Officer, Kalyanpur, Samastipur.
4. Harilal Sah, S/o Late Paltan Sah,
5. Sundeshwar Sah, S/o Late Babulal Sah,
6. Namolal Sah @ Natholal Sah, S/o Late Sonela Sah,
7. Ram Saran Sah, S/o Late Sonela Sah,
8. Shankar Sah, S/o Late Sonela Sah,
9. Arun Kumar Singh, S/o Jagdish Prasad Singh,
10. Kedar Verma, S/o Late Chandeshwar Verma,
11. Sambhu Verma, S/o Late Chandeshwar Verma,
12. Nageshwar Verma, S/o Late Raghunandan Verma,
13. Srinarayan Verma, S/o Late Raghunandan Verma,
14. Maheshwar Verma, S/o Late Raghunandan Verma,
15. Laxmi Verma, S/o Late Raghunandan Verma,

Respondent nos. 4 to 15 are resident of Village Malinagar, P.S.- Chakmahesi,
Distt- Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bijay Bhushan Prasad, Adv.
For the State : Mr. Akhilesh Kumar Sinha, AC to SC-19

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 05-12-2017 Heard learned Counsels for the petitioner and learned AC
to SC-19 for the respondent-State.

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 No. 669, Plot Nos.
1664,1659,1697, situated in Village -Malipur, P.S.-Chakmahesi,
Circle-Kalyanpur, District- Samastipur as the same has been
encroached upon by respondent nos. 4 to 15.



In view of the nature of order this Court intends to pass, this Court is not inclined to adjourn the matter any further since the Writ application was registered on 07.08.2017, but no counter affidavit has been filed till date, nor this Court is inclined to issue notice to private respondent nos. 4 to 15.

It is submitted by learned Counsel appearing on behalf of the petitioner that the land in question is a public land upon which part of public road is situated, while on the remaining portion a Brahm Asthan is existing, which is used by the public at large, but the same has been encroached upon by respondent nos. 4 to 15. As a result of the same, the public is facing difficulty in using the road and Brahm Asthan which has been used by the community at large. On the application submitted by the petitioner before the respondent no.3, the Circle Officer, Kalyanpur, the Revenue Clerk-cum-Circle Inspector vide Memo No.1181, dated 29.01.2008, as contained in Annexure-1, submitted the report to the effect that the land in question is a public road and the same has been encroached upon by respondent nos. 7, 9 and 10. Consequently, the Circle Amin submitted a report on 01.09.2008, as contained in Annexure-2, with regard to demarcation of land stating therein that respondent nos. 4, 5, 6, 8 and 9 have encroached the land in



question. Consequently, Encroachment Case No. 25 of 2007-08 was initiated and notices were issued to the encroachers vide notice dated 30.07.2010, as contained in Annexure-3. One of the encroachers, namely, Arun Kumar Singh, respondent no.9 in the present proceeding, challenged the said notice, as contained in Annexure-3 for quashing of the impugned notice and for settling the land in question in his favour. The said Writ application being CWJC No. 13464 of 2010 was disposed of by a Bench of this Court vide order dated 16.07.2013, as contained in Annexure-4 with a liberty to the petitioner to raise the grievance before the concerned Circle Officer. However, the petitioner's side challenged the claim of respondent no.9 before the respondent no.3, the Circle Officer, Kalyanpur, but till date the encroachment proceeding being Encroachment Case No. 25 of 2007-08 has not been concluded. A statement to that effect has been made in paragraph no.13 of the Writ application. Hence, the present Writ application.

Learned AC to SC-19 appearing on behalf of the respondent-State submits that at present he is not having any instruction whether the encroachment proceeding has been concluded or not.

Under the Circumstances, this Court directs respondent



no.3, the Circle Officer, Kalyanpur, to take the proceeding of Encroachment Case No.25 of 2007-08 to its logical conclusion, if it has not already been concluded, within a period of three months, after giving due opportunity of hearing to all the affected persons under the provisions of the Bihar Public Land Encroachment Act.

The Writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

Ashwini/-

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