

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10958 of 2017

Jimdar Rai, Son of Late Ujiyar Rai, Resident of Village Darba, Police Station- Tajpur (O.P Halai), District- Samastipur, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Revenue & Land Reforms, Government of Bihar.
3. The District Magistrate, District- Samastipur, Bihar.
4. The District Development Of Officer, District- Samastipur, Bihar.
5. The Sub-Divisional Officer, Patori Sub-Division, District- Samastipur, Bihar.
6. The Circle Officer, Patori Block, District- Samastipur, Bihar.
7. Yogendra Rai, Son of Late of Ramjeevan Rai, Resident of Village- Darba Police Station- Tajpur (O.P. Halai), District Samastipur, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Narendra Kumar Mr. Raghunandan Kumar Singh
For the Respondent/s	:	Mr. RAJ KISHORE ROY-GP18

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 30-11-2017 Heard learned counsels for the parties.

The nature of order this court intends to pass, does not require issuance of notice to respondent no. 7.

The present writ application has been filed for a direction to the respondent authorities to remove the encroachment over the land appertaining to C.S. Plot No. 3521, situated at Mauza Darba Sheet No. 4, Thana No. 382.

Learned counsel for the petitioner submits that the land in question is a public road and is being used by public at large. It is further submitted that the respondent no. 7 is residing on Survey Plot No. 3512, on which he has constructed the house, which



is adjacent to the said public road, and thereby encroached the same and blocked the public road in question.

The petitioner submitted a representation before the respondent no.6, the Circle Officer, Patori on 13.6.2017, as contained in Annexure 1, and transmitted the reminder on 11.7.2017, as contained in Annexure 2, but till date neither the encroachment proceeding has been initiated nor the encroachment has been removed. Hence, the present writ application.

Since no counter affidavit has been filed, hence, it is difficult to ascertain whether the land in question is a public road or, if it is a public road, whether any action has been taken by the respondent authorities for removal of encroachment, if any.

For initiating a proceeding under the Bihar Public Land Encroachment Act (hereinafter referred to as the Act), Section 3 of the Act stipulates that it should appear to the Collector under the Act from an application made by any person or upon the information received from any source that any person has made or is responsible for the continuation of encroachment upon any public land.

No doubt, in the present case a public petition was submitted before the respondent authorities including the respondent no.6, the Circle Officer, Patori on 13.6.2017 and reminder on



11.7.2017 but it does not appear that any action has been taken.

In the circumstances, the petitioner is given liberty to submit a fresh representation before the respondent no.6, the Circle Officer, Patori within a period of three weeks from the date of receipt/production of a copy of this order with a prayer for removal of encroachment from the land in question and it is expected from the respondent no.6, the Circle Officer, Patori to examine the revenue records and if need be, may inspect the land in question where upon if it appears to him that the public road or its flanks have been encroached upon, then he will initiate a proceeding under the Act forthwith and will take the same to its logical end within a period of three months thereafter, after giving due opportunity of hearing to all affected persons in accordance with the provisions of the Act. It is made clear that this Court has not expressed any opinion upon the nature of the land in question.

This writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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