

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11473 of 2016

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Bibhuti Kumar Son of Late Nakuldeo Kumar, Resident of Village
Ganeshpur, P.O. Ganeshpur (Puraini), P.S Puraini, District Madhepura.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Land and Revenue, Government of Bihar, Patna.
3. The District Collector, Madhepura, P.S. Madhepura District Madhepura.
4. The Circle Officer, Puraini, P.S Puraiani, District Madhepura.
5. The Circle Amin, Puraini, P.S Puraini, District Madhepura.
6. The Revenue Clerk, Mauza- Ganeshpur, Circle- Puraini, P.S Puraiani, District Madhepura.
7. Gulab Chandra Paswan, Son of Kulo Paswan.
8. Upendra Paswan, Son of Bhola Paswan.
9. Niranjana Paswan, Son of Late Banarsi Paswan.
10. Wajid Paswan, Son of Late Bikhari Paswan.
11. Navin Paswan, Son of Late Hrinandan Paswan Sl. No. 7 to 11 are residents of Village- Ganeshpur, P.S. Ganeshpur (Puraini), P.S Puraiani, District Madhepura.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dr. Sanjay Kumar Singh, Advocate
For the Respondent/s : Mr. Sajid Salim Khan, SC-25

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 14-12-2017

Heard Dr. Sanjay Kumar Singh, learned counsel

for the petitioner and Mr. Sajid Salim Khan, learned SC-25.

In view of the nature of order this Court intends to pass, this Court is not inclined to adjourn the matter any further or issue notice to private respondent nos. 7 to 11.

The present Writ application has been filed for a direction to the respondent authorities to get the encroachment



removed from the public land appertaining to Thana No. 142, Khata No. 564, Plot No. 2115 situated in Mauza – Ganeshpur, Circle – Puraini, District – Madhepura.

It is submitted by learned counsel for the petitioner that the land in question is a public road as recorded in the revenue records and it connects village Ganeshpur and village Orai under Puraini Circle. Due to the encroachment the petitioner's egress and ingress on his raiyati land appertaining to Khata No. 370, Plot No. 1255 has also been completely blocked.

The petitioner submitted application on 05.05.2014 before respondent no. 4, Circle Officer, Puraini, as contained in Annexure-3, and consequently the Circle Amin submitted a report on 06.08.2014, as contained in Annexure-4, suggesting encroachment upon the public road. Consequently, the Circle Officer, Puraini vide order dated 01.11.2014 directed respondent nos. 7 to 11 to remove encroachment from the public land, as contained in Annexure-5, yet the same has not been removed, despite the fact that respondent nos. 7 to 11 have entered appearance and admitted the encroachment.

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, if it appears to the Circle Officer that the public land has been encroached upon, then he shall initiate a proceeding under the Bihar Public Land Encroachment Act (hereafter referred to as the 'Act'), if the same has already not been initiated and it will be concluded within a time frame.

Considering the rival submissions of the parties, for initiating a proceeding under 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.

From the materials on record, it appears that the representation was submitted by the petitioner for removal of the encroachment as far back as on 05.05.2014 and consequently, the report of the Circle Amin, as contained in Annexure-4, also prima facie suggests about the encroachment, but there is nothing on record to suggest that any encroachment proceeding has been initiated.

In the circumstances, it is expected from respondent no. 4, Circle Officer, Puraini to examine the revenue



records and if need be conduct 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 the same to its logical conclusion within a period of three months, after giving due opportunity to all affected persons including respondent nos. 7 to 11 under the provisions of the Act.

Accordingly, this Writ application is disposed of.

(Dinesh Kumar Singh, J)

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