

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5223 of 2017

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Dharam Nath Sharma, Son of Late Adalat Thakur, Resident of
Village - Andharwara, Police Station- Raja Pakar, in the District of Vaishali

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna
2. The Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna
3. The District Magistrate - Cum - Collector, Vaishali
4. The Sub - Divisional Magistrate, Hajipur in the District of Vaishali
5. The Circle Officer, Hajipur in the District of Vaishali

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar
For the Respondent/s : Mr. S.C.YADAV-GP15

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 22-11-2017 Heard Mr. Sunil Kumar, learned counsel for the petitioner and Mrs. Sanghmitra Ghosh, learned AC to SC-15, for the respondent-State.

Since the present writ application was registered on 07.04.2017, but till date no counter affidavit has been filed, this Court is not inclined to adjourn the matter any further, particularly in view of the nature of order, this Court intends to pass.

The present writ application has been filed for a direction to the respondent authorities, particularly respondent no.5, the Circle Officer, Hajipur, Sadar, to get the encroachment removed from the land appertaining to Khata No. 306, Plot No. 390,



situated in Mauza Andharwara, Circle Hajipur Sadar, District Vaishali by initiating an appropriate proceeding under the Bihar Public Land Encroachment Act (hereinafter referred to as 'the Act'), since the land in question is recorded in the Revenue Records as 'Gairmajarua Sarva Sadharan' and the same is being used as road by the public at large.

It is submitted by the learned counsel for the petitioner that the land in question is recorded in the Revenue Records as Gairmajarua Sarva Sadharan and the same is being used as public road, but the same has been encroached upon by several persons, obstructing the free flow of the traffic. For removal of the encroachment from the land in question, representations were submitted before respondent no.3, the District magistrate, Vaishali, respondent no.4, the Sub-Divisional Magistrate, Hajipur and respondent no.5, the Circle Officer, Hajipur on 11.10.2016, 06.08.2016 and 04.05.2016, as contained in Annexure-1(series). On the representation of the petitioner, respondent no.5, the Circle Officer, Hajipur Sadar, vide letter no. 1519 dated 23.09.2016, directed the In-Charge, Barati O.P. to maintain status quo over the land in question till the land is measured, but in spite of that, no action has been taken, either to stop the people from encroaching the public land/road any



further, or to remove the encroachment from the land in question and till date encroachment proceeding has not been initiated. Hence, the present writ application.

Learned AC to SC-15 submits that at present, she is not having any instruction whether encroachment proceeding has been initiated or not or encroachment has been removed or not.

After having heard the learned counsel for the parties, this Court is of the view that for initiating a proceeding under the Act, Section 3 of the Act stipulates that such proceeding can be initiated if it appears to the Collector under the Act from an application made by any person or upon information received from any sources that the public land has been encroached upon. In the present case, no doubt that Circle Officer came to know about the claim of the petitioner that the public land has been encroached upon when he received the representation on 04.05.2016, as contained in Annexure-1(series) and consequently when he directed the Officer-in-Charge, Barati O.P. on 11.10.2016, as contained in Annexure-2 to maintain the status quo on the land in question, but it is surprising that there is nothing on record to suggest that any proceeding under the Act has been initiated.

In the circumstances, respondent no.5, the Circle Officer,



Hajipur is directed to examine the revenue record and if need be, make spot verification, and if it appears to him that the land in question is a public land and the same has been encroached upon, then initiate a proceeding under the Act within a period of four weeks from the date of receipt/production of a copy of this order, if it has already not been initiated, and take the same to its logical conclusion within a period of three months of its initiation, after giving due opportunity of hearing to all affected persons, in accordance with the provisions of the Act.

Accordingly, with the above observation and direction, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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