

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15543 of 2017

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Surendra Nath Singh, Son of Late Bishwanath Roy, Resident of Village-
Bisodehri, Police Station- Karahgar, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Rohtas.
2. The District Magistrate, Rohtas at Sasaram.
3. The Circle Officer, Karahgar, Police Station- Karahgar, District- Rohtas.
4. The Officer-in-Charge, Karahgar, District- Rohtas.
5. Akshayawar Paswan, Son of Late Suraj Paswan,
6. Om Prakash Paswan, Son of Late Suraj Paswan,
7. Jai Prakash Paswan, Son of Late Suraj Paswan,
8. Muni Paswan, Son of Late Bansropan Paswan,
9. Jang Bahadur Paswan, Son of Late Bansropan Paswan,
10. Hirid Paswan, Son of Late Bansropan Paswan,
11. Shivji Paswan, Son of Veenit Paswan,
12. Ram Pravesh Paswan, Son of Veenit Paswan,
13. Ramesh Paswan, Son of Veenit Paswan,
14. Sunil Paswan, Son of Hirid Paswan,
15. Singhashan Paswan, Son of Late Ram Bachchan Paswan,
16. Ayodhya Paswan, Son of Late Harbans Paswan,
17. Dhananjay Paswan, Son of Late Dashai Paswan,
18. Radha Paswan, Son of Late Doma Paswan,
19. Rabindra Paswan, Son of Ram Pravesh Paswan,
20. Yogendra Paswan, Son of Ram Pravesh Paswan.
21. Ramraj Paswan, Son of Radha Paswan, SI Nos. 5 to 21 are resident of
Village- Bisodehri, Police Station- Karahgar, District- Rohtas.

... .. Respondent/s

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Appearance :

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

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 08-12-2017 Heard Mr. Arun Kumar Singh, learned counsel for the

petitioner and Mr. Rakesh Srivastava, learned AC to

GP-15 for the respondent authorities.

In view of the nature of order this Court intends to pass,

this Court is neither inclined to adjourn the matter for filing



counter affidavit, nor inclined to issue notice to private respondent nos.5 to 21.

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. 116, Khata No. 65, Plot Nos. 232, 55, 49 and 84, situated in Mauza Bisodehri, P.S. Karahgar, District Rohtas.

It is submitted by learned counsel for the petitioner that on part of the land, appertaining to Thana No. 116, Khata No. 65, Plot No. 232, measuring an area of 5 acres, a water reservoir (Talab) is existing, which is being used by the public at large, but the same has been encroached upon by private respondent nos. 5 to 21, whereas on the land appertaining to Khata No. 65, Plot Nos. 49 and 84, measuring an area of 2.60 acres and 3.20 acres, respectively, a public road has been constructed under the scheme of 'Pradhan Mantri Gram Sadak Yojna', but the same has also been encroached upon. Though, the land, appertaining to Plot No. 55, Khata No. 65, measuring an area of 1.40 acres, is the flank of the road, which is in front of the raiyati land of the petitioner, appertaining to Plot nos. 56, 57, 73, 76, 77, 82 and 83, but due to such encroachment, the ingress and egress of the petitioner has completely been blocked.



It is further submitted that for getting the encroachment removed from the land in question, representations were submitted by the petitioner on 30.05.2017, 23.06.2017, before respondent no.3, the Circle Officer, Karahgar, as contained in Annexures- 1 and 2, and on 29.06.2017, before respondent no.4, the Officer-in-Charge, Karahgar, as contained in Annexure-3, but no action has been taken for removal of the encroachment from the land in question. Hence, the present writ application.

Learned AC to GP-15 submits that he is not having any instruction, whether the land in question is a public land, or whether any proceeding under the Bihar Public Land Encroachment Act (hereinafter referred to as 'the Act') has been initiated or not.

Considering the rival submissions of the parties, this Court is of the view that the *sine qua non* for initiating proceeding under Section 3 of the Act is that it should appear to the Collector under the Act, from an application made by any person or upon information received from any sources that any person has made or is responsible for the continuance of any encroachment upon any public land.

In the present case, no doubt, respondent no.3, the Circle Officer, Karahgar, was represented by the petitioner on



30.05.2017 and 23.06.2017, but there is nothing on record to suggest that any proceeding under the Act has been initiated.

In the circumstances, respondent no.3, the Circle Officer, Karahgar is expected to examine the Revenue Records and if need be, conduct 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 he shall initiate a proceeding under the Act forthwith, if the same has already not been initiated till date, and take such proceeding to its logical conclusion within a period of four months from its initiation, after giving due opportunity of hearing to all affected persons, in accordance with the provisions of the Act.

With the above observations and directions, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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