

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15835 of 2017

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Surendra Prasad Singh, Son of late Ram Kuber Singh, Resident of Village – Karma, Post Office – Kudra, P.S. Kudra, District – Kaimur at Bhabua.

.... Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Government of Bihar, Patna.
2. The District Magistrate, Kaimur at Bhabua.
3. The Sub-Divisional Magistrate, Mohania, District – Kaimur at Bhabua.
4. The Anchaladhikari, Kudra, District – Kaimur at Bhabua.
5. The Circle Officer, Kudra Block, District – Kaimur at Bhabua.

..... Respondents Ist Set.

6. Kishore Bind, Son of Late Guput Bind.
7. Idrish Mian, Son of Late Husaini Mian.
8. Bhagirathi Ram, Son of Late Mahesh Ram.
9. Bachai Ram, Son of Late Mahesh Ram.
10. Nand Kishore Ram, Son of Bachai Ram.
11. Lal Mohar Ram, Son of Bachai Ram.
12. Dudhnath Ram, Son of Mahesh Ram.
13. Ram Janam Ram, Son of Babulal Ram.
14. Sheo Janam Ram, Son of Babulal Ram.
15. Jai Prakash Ram, Son of Baldeo Ram.
16. Bhadani Ram, Son of Late Ram Bilas Ram.
17. Amawash Ram, Son of Late Kuber Ram.
18. Rashian Bibi, Wife of Late Kadir Sah.
19. Bismila Sah, Son of Late Jokhan Sah.
20. Manoj Chaudhary, Son of Late Haridwar Chaudhary.
21. Sunil Chaudhary, Son of Late Ram Bilas Chaudhary.
22. Anil Chaudhary, Son of Late Ram Bilas Chaudhary.
23. Munna Chaudhary, Son of Late Ram Bilas Chaudhary.
24. Moti Chaudhary, Son of Late Ram Bilas Chaudhary.
25. Chandrabhan Chaudhary, Son of Surabansh Choudhary.
26. Shrideo Chaudhary, Son of Suryabansh Choudhary.
27. Radheshyam Singh, Son of Late Bilat Singh.
28. Sushil Prasad Singh, Son of Late Shankar Singh.
29. Chaturi Prasad Singh, Son of Late Ramadhar Singh.
30. Parmanand Singh, Son of Late Dev Singh.
31. Indu Mian, Son of Late Kishmat Mian.
32. Akhtar Mian, Son of Late Ramjan Mian.
33. Mansur Mian, Son of Late Ramjan Mian.
34. Chahal Ram, Son of Late Ram Sakal Ram.
35. Ram Bachan Bind, Son of Late Vishwanath Bind.
36. Sagar Paswan, Son of Late Jagdish Paswan.
37. Kashi Paswan, Son of Sheomurat Paswan.
38. Bipin Paswan, Son of Late Sipahi Paswan.

Respondent nos. 6 to 38 are resident of village – Karma, P.O. + P.S. – Kudra, District – Kaimur at Bhabua.

.... Respondents IInd Set.
Respondents.



Appearance :

For the Petitioner/s : Mr. Rajani Kant Singh, Advocate

For the Respondent/s : Mr. Phul Prasad, AC to GP-18

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 17-11-2017

Heard Mr. Rajani Kant Singh, learned counsel

for the petitioner and Mr. Phul Prasad, learned AC to GP-18.

In view of the nature of order this Court intends to pass, this Court is neither inclined to adjourn the matter any further for allowing the counsel for the official respondents to file counter affidavit or to issue notice to private respondent nos. 6 to 38.

The present Writ application has been filed for a direction to the respondent authorities to remove the encroachment from the land appertaining to R.S. Khata No. 149, R.S. Plot No. 862, measuring an area of 75 decimals situated in Mauza – Karma, P.S. – Kudra, Distict – Kaimur at Bhabua, which is a public land and is recorded as Anabad Sarv Sadharan in R.S. Khatiyan upon which private respondent nos. 6 to 38 are constructing their houses.

It is submitted by learned counsel for the petitioners that in the R.S. Khatiyan, as contained in Annexure-1, the land in question is recorded as Anabad Sarv Sadharan and as a result the same has been used by the public at large but the same



has been encroached upon by private respondent nos. 6 to 38 and due to which the Rasta of the petitioner and other villagers for outgress and ingress over their agricultural lands has been blocked and the water of the water channel (Ahar) has been blocked, as a result the water is overflowing in the agricultural lands of the petitioner and other villagers resulting into serious damage to the crop. The petitioner submitted an application before respondent no. 5, Circle Officer, Kudra on 17.05.2017, as contained in Annexure-2, for taking steps for removal of the encroachment forthwith, as due to the encroachment made by private respondent nos. 6 to 38 the crop of the petitioner and other villagers is being damaged, but no step has been taken for removal of the encroachment. Thereafter, on 27.06.2017, the petitioner submitted a representation before respondent no. 2, District Magistrate, Kaimur at Bhabua, as contained in Annexure-3 for removal of the encroachment over the land in question but no action has been taken, hence, the present Writ application.

Mr. Phul Prasad, learned AC to GP-18 submits that he is not in a position to say whether any proceeding under Bihar Public Land Encroachment Act, 1956 has been initiated or not or whether the land in question is a public land or not. However, if it is found that the encroachment has been made on



public land then the Circle Officer will definitely initiate a proceeding and will conclude the same within time frame.

Considering the rival submissions of the parties, this Court is of the view that for initiating a proceeding under Bihar Public Land Encroachment Act, 1956 (hereinafter called as the 'Act), Section 3 of the Act stipulates that the same will 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 any person has made or is responsible for encroachment upon any public land.

In the present case, no doubt petitioner has submitted application before respondent no. 5, Circle Officer, Kudra, as contained in Annexure-2, as far back as on 17.05.2017 and before respondent no. 2, District Magistrate, Kaimur at Bhabua on 27.06.2017, as contained in Annexure-3, but there is nothing on record to suggest that any proceeding has been initiated.

In the circumstances, respondent no. 5, Circle Officer, Kudra is directed to dispose of the representation of the petitioner, after examining the revenue records and if need be, making spot verification and if it appears to him that the public land has been encroached upon then he will initiate a proceeding



under the Act forthwith, if it has not been initiated as yet, and will take the same to its logical conclusion within a period of three months from the date of receipt/production of a copy of this order, after giving due notice to all the affected persons including private respondent nos. 6 to 38 in accordance with the provisions of the Act.

Accordingly, this Writ application is disposed of.

(Dinesh Kumar Singh, J)

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