

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16560 of 2017

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Nand Kishore Rai, Son of Late Janki Rai, Resident of Village Barheyan,
P.O.- Chhitryaliya, P.S. Ekma, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Land Reforms and Revenue Government of Bihar, Patna.
2. The District Magistrate, Saran at Chapra.
3. The Sub-Divisional Officer, Sadar, Chapra.
4. The Circle Officer, Ekma, District- Saran.
5. The Officer-in- Charge, Ekma Police Station, District- Saran at Chapra.
6. Ajay Singh, Son of Late Tribhuwan Singh, resident of Village Barheyan, P.O.- Chhitryaliya, P.S.- Ekma, District- Saran at Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Roy
For the Respondent/s : Mr. SAJID SALIM KHAN -SC25

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 21-11-2017

Heard learned counsels for the parties.

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 to issue notice to respondent no. 6.

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. 134, Khata No. 3118, Survey Plot No. 13781, situated in village Barheyan, Circle – Ekma, District – Saran which was being used as road by the public at large but the same has been encroached by respondent no. 6 by erecting boundary wall.

It is submitted by learned counsel for the petitioner that for removal of said encroachment, a public petition dated



5.5.2017, as contained in Annexure 2 was filed before the respondent no.4, the Circle Officer, Ekma, copy of which was also forwarded to S.D.O., Sadar, Chapra and the District Magistrate, Saran. Subsequently, a representation dated 30.7.2017, as contained in Annexure 3 was also filed before the Mukhiya, Gram Panchayat, Parsa but no action has been taken in spite of the fact that representation (Annexure 2) was also filed before the District Magistrate, Saran. Hence, the present writ application.

Learned counsel for the official respondents submits that at present, he is not having any instruction whether the encroachment has been removed or not.

Having heard learned counsels for the parties, this Court is dismayed to find that the authorities, who are required to look into the matter and ensure that any public road is not being encroached upon, they do not do as such and act in a laid-back manner. In spite of representations being filed by the public at large, they chose not to take action for removal of encroachment from the public land.

For initiating a proceeding under the Bihar Public Land Encroachment Act (hereinafter referred to as the 'Act'), 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, representation has been submitted not only before the respondent no. 4, the Circle Officer, Emka on 5.5.2017 but also before the respondent no. 2, the District Magistrate, Saran, but there is nothing on record to suggest that any action has been taken in pursuance to the said representations.

In the circumstances, the respondent no. 4, the Circle Officer, Ekma is expected to examine the issue and if need be, make spot verification and on doing so, if it appears to him that the public land has been encroached upon, then he will initiate the proceeding under the Act within two weeks of the receipt/production of a copy of this order and will take such proceedings 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.

This writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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