

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7972 of 2014

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Kali Kant Jha, S/o Late Keshar Jha, resident of village- Jalsain, P.S.-
Rudrapur, District- Madhubani

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar,
Patna
 2. The Commissioner, Darbhanga Division, Darbhanga
 3. The District Magistrate/Collector, Madhubani
 4. The Sub Divisional Officer, Jhanjharpur, District- Madhubani
 5. The Block Development Officer, Block- Andhratharhi, District-
Madhubani
 6. The Circle Officer, Block- Andhratharhi, District- Madhubani
 7. The Superintendent of Police, Madhubani, District- Madhubani
 8. The Officer In charge, Police Station- Rudrapur, Andhratharhi, District-
Madhubani
 9. The Narayan Jha S/o Late Ajab Jha
 10. Siya Ram Jha S/o Late Ajab Jha
 11. Hare Ram Jha S/o Late Ajab Jha
- All No. 9 to 11 are resident of village- Jalsain, P.S.- Rudrapur, District-
Madhubani

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Lakshmindra Kumar Yadav, Adv.
For the Respondent/s : Mr. Ajay, GA-5

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**
ORAL ORDER

2 13-07-2017 Heard Mr. Lakshmindra Kumar Yadav, learned
Counsel appearing on behalf of the petitioner and Mr. Ajay,
learned GA-5 appearing on behalf of the respondent State.

The present writ application has been filed for
issuance of a direction to the respondent authorities to get the
encroachment removed over the public road pertaining to Plot No.
1094 (old), Plot Nos.1481, 1483 and 1484 (new), situated at



Village- Jalsain, Block-Ghoghardiha, District – Madhubani.

It is submitted by learned Counsel appearing on behalf of the petitioner that the public road in question has been encroached upon by Respondent Nos.9 to 11. A proceeding under section 133 of the Indian Penal Code was initiated, being MR Case No. 562 of 78, TR No.87/80, wherein, vide order dated 14.11.1980, the Sub-Divisional Magistrate, Jhanjharpur, directed for removal of the encroachment from the land in question. Consequently, the encroachment was removed, but, the encroachment resurfaced again. A representation dated 28.03.2013, was submitted by the petitioner to the District Magistrate, Madhubani, through registered post, as contained in Annexure-2, but, no action has been taken till date. Hence, the writ application has been filed.

Mr. Ajay, learned GA-5, appearing on behalf of the respondent State submits that considering the nature of prayer made, the writ application may be disposed of with a direction to Respondent No.6, the Circle Officer, Andhratharhi, to initiate a proceeding under the provisions of Bihar Public Land Encroachment Act (hereinafter called as 'the Act'), if the encroachment is still persisting on the public road in question and to conclude the same within a reasonable time frame.



In view of the nature of order this Court intends to pass, there is no need of issuance of notice to Respondent Nos. 9 to 11.

Considering the rival submissions of the parties, the writ application is disposed of with a liberty to the petitioner to submit a representation with a prayer for removal of encroachment over the land in question before Respondent No.6, the Circle Officer, Andhratharhi, within a period of three weeks, from the date of receipt/production of a copy of this order, who will dispose of the same, upon its filing, within a period of four weeks thereafter. If Respondent No.6, *prima facie*, comes to the conclusion that the land in question is a public land/road and the same has been encroached upon, then an appropriate proceeding be initiated under the provisions of the Act, if it has already not been initiated and the same should be taken to its logical conclusion within a period of four months, after giving due opportunity of hearing to all the affected persons, under the provisions of the Act.

(Dinesh Kumar Singh, J)

Ashwini/-

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