

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9591 of 2014

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1. Shree Narayan Singh Son of Late Raghubar Narayan Singh, Managing Trustee,
Rai Bahadur Dalip Narayan Singh Trust Estate resident of Uddiyana, Dalip Mahal,
Mohalla Purabsari, P.S. Kotwali, Town, P.O. & District - Munger

.... Petitioner/s

Versus

1. The State of Bihar
2. Deputy Collector, Land Reforms, Munger
3. Anchal Adhikari (Circle Officer), Jamalpur, District - Munger

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Uday Singh, Advocate

For the Respondent/s : Mr. Ramadhar Singh, G.P.-25.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 07-04-2017

Heard learned Counsel for the petitioner and learned G.P.-

25 for respondents.

The present writ application has been filed with a prayer for a direction to respondent no.3, the Circle Officer, Jamalpur to act in pursuance to the order dated 04.07.2012 passed by D.C.L.R., Munger, respondent no.2 in Land Dispute Resolution Case No. 61 of 2011-12 whereby respondent no.3, the Circle Officer, Jamalpur was directed to initiate the proceeding under the Bihar Public Land Encroachment Act (herein after called as 'the Act') and remove the encroachment from the land in question, which is found to be public land, in accordance with law. The prayer has also been made for disposal of the representation of the petitioner dated 04.10.2012, as contained in Annexure-4, whereby the petitioner represented to the



respondent no.3 along with the order passed by the D.C.L.R., as contained in Annexure-3, for initiation of encroachment proceeding and for removal of the encroachment.

It is submitted by the learned Counsel for the petitioner that the petitioner is the Managing Trustee of the Rai Bahadur Dalip Narayan Singh Trust Estate, Munger (hereinafter called as 'the Trust'). The Trust is the owner of Plot No. 18, Survey Thana No. 207, Tauzi No. 4827 of Mouza Ashikpur as well as Plot No. 17, Survey Thana No. 2, Tauzi No. 4827 of Mouza Ashikpur, Circle Jamalpur in the District of Munger. The Trust was in process of establishing residential colony for general public known as Dalip Vihar since 2000-01. To the west of this colony lies Munger Jamalpur main road and east of this road and the colony is a drainage followed by a long strip of Gairmazarua Aam land. The said Gairmazarua land connects the main road to the colony. The petitioner has not provided specification of the said Gairmazarua land since it was not available with the petitioner but he submits that the same has been encroached by several persons. The petitioner filed Land Dispute Resolution Case No. 61/2011-12, making some of the encroachers as opposite parties, with a prayer for demarcating the Gairmazarua Aam land for removal of the encroachment but in spite of issuance of notice, the encroachers chose not to appear. The D.C.L.R., Munger, respondent no.2 disposed



of the said Land Dispute Resolution Case No. 61/2011-12 vide order dated 04.07.2011 directing the Circle Officer, Jamalpur, respondent no.3 that if the land in question is found to be a public land which is encroached, then an encroachment proceeding under the provisions of the Act be initiated and the encroachment be removed in accordance with the provisions of the Act. Consequently, the petitioner submitted a representation before the Circle Officer, respondent no.3 on 04.10.2012, as contained in Annexure-4, for complying the order of the D.C.L.R. dated 04.07.2011 passed in Land Dispute Resolution Case No. 61/2011-12, as contained in Annexure-3, but till date neither the encroachment proceeding has been initiated nor the encroachment has been removed from the said land in question.

Learned G.P.-25 submits that at present he does not have any instruction with regard to initiation of encroachment proceeding or about the removal of the encroachment.

Considering the rival submission of the parties, this Court is dismayed to entertain a representation for directing the authorities of the State to implement and execute the order of the superior authorities, which reflects the callous manner in which respondent no. 3 is discharging his duty.

It is expected from the District Magistrate, Munger to look into the matter. Encroachment proceeding under Section 3 of the Act



can be initiated if it appears to the Collector from the application made by any person or upon information received from any sources that any person has made or is responsible for continuation of any encroachment upon any public land. Here is a case where the D.C.L.R. has directed the Circle Officer to initiate the proceeding under the Act in the year 2012 but even after five years, it has not been initiated.

Accordingly, the writ application is disposed of with a direction to the Circle Officer, Jamalpur, respondent no.3 to comply the order dated 04.07.2012 passed by D.C.L.R., Munger, respondent no.2 in Land Dispute Resolution Case No. 61 of 2011-12 and consequently disposed of the representation of the petitioner dated 04.10.2012, as contained in Annexure-4, within a period of four weeks from the date of receipt/production of a copy of this order. If the land encroachment proceeding has already been initiated then it should be concluded within a period of four months under the provisions of the Act after giving due opportunity of being heard to all affected persons.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24/04/2017
Transmission Date	N/A

