

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6236 of 2016

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Munni Lal Yadav, Son of Shri Hari lal Yadav, Resident of Village-Tadhwa Nandpur, Khalawa Tola, Ward no. 6., P.S.- Bairiya, District-West Champaran (Bettiah).

.... Petitioner

Versus

1. The State of Bihar
2. The District Magistrate, West Champaran, Bettiah.
3. The Sub Divisional Officer, West Champaran, Bettiah.
4. The Circle Officer, Block Bairiya, P.S.- Bairiya, District-West Champaran, Bettiah.
5. Babu Nand Yadav, Son of Late Chandrika Yadav.
6. Birendra Yadav, Son of late Laxuman Yadav, Both Resident of Village-Tadhwa Nandpur, Khalawa Tola, Ward no. 6, P.S.- Bairiya, District-West Champaran (Bettiah)

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ramchandra Sahni, Adv.
For the Respondent/s : Mr. M.K. Singh, SC-6

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 25-07-2017 Heard learned counsels for the petitioner, respondent no.6 and learned A.C. to S.C.-16.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed over the public road appertaining to Khata No. 355, Plot No. 1480, situated in Mauza Tadhwa Nand Khalwa Tola, District West Champaran, Bettiah.

It is submitted by the learned counsel for the petitioner that the public road appertaining to Khata No. 355, Plot No. 1480 has been encroached upon by respondent nos. 5 and 6,



Babu Nand Yadav and Birendra Yadav, as a result, the movement of the villagers has been substantially impeded. On the basis of application submitted by the villagers on 03.08.2015, as contained in Annexure-1, respondent no.4, the Circle Officer, Bairiya, initiated Encroachment Case No. 03 of 2015-16. Thereafter, respondent no.4 directed the Circle Amin to measure the public road in question and submit a report. Consequently, a report was submitted to the Circle Officer, Bairiya to the effect that Plot No. 1480 is a Gairmajarua Aam land and the same has been encroached by Babu Nand Yadav, respondent no.5 and Birendra Yadav, respondent no.6. The Circle Officer, Bairiya, respondent no.4, vide notice dated 20.08.2016, as contained in Annexure-3, issued in Encroachment Case No. 03 of 2015-16, directed respondent nos. 5 and 6, Babu Nand Yadav, Birendra Yadav and the petitioner Munilal Yadav to appear in his office on 01.09.2015, at 11 AM in order to submit their defence, as to under what circumstances, they have encroached the public road. Thereafter, the Circle Officer, Bairiya, vide Memo No. 710, dated 29.09.2015, as contained in Annexure-4, directed the petitioner Munilal Yadav, respondent nos. 5, 6, Babu Nand Yadav, Birendra Yadav and Tarkeshwar Yadav to be present on 05.10.2015 at 10 AM on the spot, so that measurement of the land in question could be



done in their presence. Again, the Circle Officer, Bairiya, vide Memo No. 783, dated 21.11.2015, as contained in Annexure-5, directed them to be present on 05.12.2015 at 10 AM for getting the land measured. Thereafter, on the basis of measurement done on 21.11.2015, vide Memo No. 868, dated 23.12.2015, as contained in Annexure-6, the Circle Officer, Bairiya directed respondent nos. 5 and 6, Babu Nand Yadav and Birendra Yadav to remove encroachment by 02.12.2015, failing which the encroachment shall be removed by force.

It is further submitted that till date encroachment has not been removed.

It is submitted by learned counsel for respondent no.6 that proceeding of Encroachment Case No. 03 of 2015-16 has still not been concluded and during initial enquiry, it was found that the petitioner was also an encroacher, but no final order under Section 6(1) of the Bihar Public Land Encroachment Act has been passed and that is the reason, the notices, as contained in Annexures-4, 5 and 6, do not bear any encroachment case number.

Learned A.C. to S.C.-16 submits that, at present, he does not have any instruction, whether Encroachment Case No. 03 of 2015-16 has been concluded or not.

Having heard the learned counsels for the parties,



from the materials on record, it appears that the proceeding of Encroachment Case No. 03 of 2015-16 has not been concluded till date and the notice dated 23.12.2015, as contained in Annexure-6, does not bear any encroachment case number. Moreover, such notice has to be issued in Form-II under Section 6(2) of the Bihar Public Land Encroachment Act but the notice does not reflect as such.

In the circumstances, it is expected from respondent no.4, Circle Officer, Bairiya to conclude the proceeding of Encroachment Case No. 03 of 2015-16 within a period of two months from the date of receipt/production of the copy of this order after giving due opportunity of hearing to all affected persons in accordance with the provisions of Bihar Public Land Encroachment Act.

It is made clear that this Court has not expressed any opinion whether the petitioner or respondent nos. 5 and 6 are encroachers or not or whether the land in question is a public land or not.

Accordingly, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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