

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.153 of 2017

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Sudhir Kumar Singh, Son of Vijay Kumar Singh, Resident of Village-Samartha, Tola Chainpur, P.S.- Bibhutipur, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms.
2. The District Magistrate, Samastipur.
3. The Deputy Collector, Land Reforms, Samastipur.
4. The Sub Divisional Officer, Samastipur.
5. The Circle Officer, Bibhutipur, Samastipur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jay Prakash Sharma, Advocate.

For the Respondent/s : Mr. Raj Kishore Roy- GP18

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 04-07-2017 Heard learned counsels for the parties.

The present writ application has been filed for a direction to the respondent authorities for getting the encroachment removed from the Gair Majarua Aam Land, appertaining to Thana No.27, Old Khata No.148, Old Plot No. 381, measuring an area 0.62 decimal, situated at Mauza Samartha, Circle – Bibhutipur in the District of Samastipur, which has illegally been encroached upon by 25 persons. Further prayer has been made to conclude the proceeding of Encroachment Case No. 15/2015-16.



It is submitted by learned counsel for the petitioner that the petitioner is a resident of village Samartha, Tola – Chainpur, District – Samastipur. The land in question is a Gairmajarua land and the same is being used by the petitioner and other villagers as road, which connects the village to the main road but the same has been encroached by several people, completely obstructing the road in question. The petitioner made an application before the respondent no. 5, Circle Officer, Bibhutipur. Consequently, the respondent no. 5, Circle Officer, Bibhutipur directed the Anchal Amin and Halka Karmchari to conduct a spot enquiry and measurement of the land in question and to submit a joint report after measuring the land. The joint report submitted by the Halka Karmchari is contained in Annexure 1, which reflects that 25% of the land has been encroached.

Subsequently, Encroachment Case No. 15 of 2015-16 was initiated wherein notice under Section 3 of the Bihar Public Land Encroachment Act (hereinafter referred to as the ‘Act’) in Form I was issued vide order dated 5.1.2016 under the signature of Circle Officer and thereafter, the notices were also issued under Section 6(2) of the Act in Form II. The Circle



Officer, vide letter no. 1113 dated 19.8.2016 requested the District Magistrate, Samastipur for deputation of police force for getting the encroachment removed but till date the encroachment has not been removed.

Mr. Raj Kishore Roy, learned GP-18 appearing for the respondents State, submits that the proceeding of Encroachment Case No. 15 of 2015-16 has already been concluded and the encroachment will be removed within few weeks of receipt/production of a copy of this order. It is further submitted that the encroachment could not be removed due to non-deputation of police force.

Having heard learned counsels for the parties, this Court is dismayed to find that virtually the present Writ application has been filed for implementation of the order passed in an encroachment proceeding. Section 6(2) of the Act provides for imposing punishment with imprisonment for a term which may extend to one year or with fine up to Rs.20000/- or with both. Section 6(2) of the Act reads as follows:

“6. Final order of the Collector –

(1)

(2) If any person does not comply with the orders passed by the Collector under this section, he



shall be punishable with imprisonment for a term which may extend to one year or with fine up to Rs.2,0000/- or with both.”

Section 7 of the Act further empowers the Collector under the Act to get the encroachment removed and to recover the cost of removal of encroachment from the person who have encroached the land. Section 7 of the Act reads as follows:

“7. Power of the Collector to get encroachment removed and recover cost of the removal.- If any person fails to comply with the orders passed by the Collector under section 6 directing the removal of any encroachment by the date fixed, the Collector shall cause the encroachment to be removed in such manner as he deems fit and the cost of such removal shall be recovered from such person.”

There is nothing on record to suggest that the respondent no. 5, Circle Officer, Bibhutipur has resorted to his jurisdiction as provided under Section 6(2) and 7 of the Act. Hence, if the encroachment has not been removed till date and the final order has already been passed for the same and the



same has not been challenged in appeal, then it is expected from respondent no. 5, Circle Officer, Bibhutipur to get the final order implemented forthwith, once he receives a copy of this order in accordance with the provisions of the Act.

This writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

Ashwini/-Anil/

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