

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16032 of 2014

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1. Vinod Kumar Gupta Son of Late Shri Kashi Nath Prasad
 2. Vikash Kumar Son of Late Shri Kashi Nath Prasad
 3. Harendra Prasad Gupta Son of Late Shri Kashi Nath Prasad
 4. Sunil Kumar Son of Late Shri Kashi Nath Prasad
 5. Shashi Kumar Son of Late Shri Kashi Nath Prasad All residents of Rajapatti (Kothi), P.O. Rajapatti (Kothi), P.S.- Baikunthpur, District- Gopalganj

.... Petitioners

Versus

1. The State of Bihar
2. The Collector, Gopalganj
3. Anchal Adhikari, Baikunthpur, District- Gopalganj
4. S.P. Gopalganj
5. Office-Incharge, Baikunthpur Police Station
6. Asharfi Ram Son of late Nayak Ram, Resident of Village- Rajapatti Kothi, P.S.- Baikunthpur, Distt.- Gopalganj.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Kamala Kant Tiwary, Adv.
For Respondent nos. 1 to 5 : A.C. to S.C.-4
For Respondent no.6 : Mr. Satyendra Rai, Adv.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date: 21-03-2017

Heard Mr. Kamala Kant Tiwary, learned counsel for the petitioner, learned A.C. to S.C.-4 for respondent nos. 1 to 5 and Mr. Satyendra Rai, learned counsel for the intervenor.

The present writ application has been filed for a direction to the respondent authority for removal of the encroachment from District Board road appertaining to Khata No. 36, Plot No. 4 measuring total area of 52 decimals contiguous east to the residential house of the petitioner.



I.A. No. 6197 of 2016 has been preferred on behalf of Asharfi Ram, for being impleaded as intervenor/respondent, since the intervenor (respondent) also uses the District Board's road in question being owner of adjacent plot and has not made any encroachment on the road in question. The intervenor (respondent) claims that the plot no. 4, Khata no. 36, Survey No.1 measuring an area of 50 decimals over which he has constructed his hutment, is recorded as Gaimajarua Malik land in the revenue records. The land of the petitioner is abutting the District Board's road.

Learned counsels for the petitioner and respondent-State submit that they have no objection with regard to impleadment of the intervenor as party respondent.

Accordingly, I.A. No. 6197 of 2016 is allowed.

Learned counsel for the petitioner is permitted to implead the intervenor as respondent no.6.

It is submitted by learned counsel for the petitioner that due to encroachment made on the road in question, the ingress and outgress of the petitioner has been substantially impeded as the said road in question is the only link for reaching his residential house. The petitioner no.1 filed a representation on 08.07.2014 before respondent no.3, the Circle Officer, Baikunthpur as contained in Annexure-2 and on 31.07.2014 and on 07.08.2014 before respondent no.2, the



Collector, Gopalganj as contained in Annexures-3 and 4 but till date no action has been taken.

Learned counsel for the respondent-State submits that he has no instruction whether the representations of the petitioner have been disposed of or not.

Considering the rival submissions of the parties, the writ application is disposed of with a direction to respondent no.2, the Collector, Gopalganj to dispose of the representation of the petitioner within a period of six weeks, if it has already not been disposed of and if it is found that the public land has been encroached, then an encroachment proceeding should be initiated under the Public Lands Encroachment Act within a period of six weeks and the said proceeding should be concluded after giving due opportunity to all the affected persons including respondent no.6 within a further period of six weeks.

It is made clear that this order may not be considered as an opinion of this Court with regard to claim or counter claim of the petitioner or intervenor respondent no.6 on the land in question.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	03/04/2017
Transmission Date	N/A

