

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15945 of 2014

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Ram Brat Roy, Son of Late Bhola Roy, Resident of Village & P.O.
Dumaron, P.S. Koran Dumaron, District - Buxar (Bihar)

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Patna Bihar
2. The District Magistrate, Buxar
3. The Executive Officer, Nagar Parishad, Dumaron, Buxar
4. The Sub - Divisional Magistrate, Dumaron, Buxar
5. Om Prakash Roy @ Bhuwar Roy, S/o Ram Belash Rai @ Dhanuy Roy
6. Santosh Roy, S/o Danaee Roy, Both Resident of Mohalla - Dumaron
Dhakin Tola, P.O. + P.S. Dumaron, District - Buxar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kritya Nand Jha

For the Respondent/s : Mr. Sc7- Mithilesh Kr. Pathak

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

ORAL ORDER

2 09-08-2017 Learned counsel for the petitioner is permitted to

make necessary correction in the party position, as prayed for.

Heard Mr. Rajeev Ranjan Pandey, learned counsel
for the petitioner, Mr. Nikesh Kumar, learned counsel for the
Nagar Parishad, Dumraon and learned A.C. to S.C. 17 for the
respondent State.

The present writ application has been filed for a
direction to the respondent authorities to get the encroachment
removed from public road appertaining to Khata No. 380, Plot
Nos. 315 and 840 situated in Ward No. 4 of Dumraon Nagar
Parishad.



It is submitted by learned counsel for the petitioner that the land in question is a public road and was initially constructed by way of brick soling by Dumraon Nagar Parishad from the local MLA fund. The said land in question has been encroached by respondent nos. 5 and 6. The petitioner's ancestral plot is adjacent to the public road, the ingress and outgress, of which, has substantially been obstructed. The petitioner filed representations dated 27.8.2012, 27.7.2013, 30.7.2013 and 1.8.2013, as contained in Annexure 2 series, before the respondent authorities, i.e., S.D.O., Dumraon, Executive Officer, Nagar Parishad, Dumraon and the District Magistrate, Buxar but no action has been taken as yet. Hence, the present writ application.

Learned counsel for the Nagar Parishad, Dumraon and learned counsel for the respondent State have submitted that, at present, they have no instruction whether the encroachment has been removed or not or whether any proceeding under the Bihar Public Land Encroachment Act (hereinafter referred to as ('the Act')) has been initiated.

Since the writ application was filed on 11.9.2014, this court is not inclined to adjourn the matter any further though no counter affidavit has been filed till date either on behalf of Nagar Parishad, Dumraon or the respondent State.



In view of the nature of order this Court intends to pass, this Court is not inclined to issue notice to the private respondent nos. 5 and 6.

For initiating a proceeding under the Act, it should appear to the Collector under the Act from an application made by any person or upon the information received from any source that any person has made or is responsible for the continuation of encroachment upon any public land. No doubt, representations were filed by the petitioner for removal of encroachment before the District Magistrate, Buxar, Nagar Parishad, Dumraon and S.D.O., Dumraon as contained in Annexure 2 series, but no such representation was filed before the Circle Officer, Dumraon nor has he been made party respondent in the present proceeding under consideration.

Learned counsel for the petitioner is permitted to implead the Circle Officer, Dumraon, as respondent no.7.

Hence, the petitioner is permitted to submit a detailed representation before the respondent no. 7, the Circle Officer, Dumraon as well as before respondent no.3, the Executive Officer, Nagar Parishad, Dumraon and if it appears to the Circle Officer, Dumraon being Collector under the Act that there is encroachment on the land in question, then he will forthwith



initiate an encroachment proceeding and will take it to its logical conclusion within a period of three months from the date of receipt/production of a copy of this order, after giving due notice to all affected persons, in accordance with the provisions of the Act.

This writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

Anil/-

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