

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14358 of 2016

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Yaduvansh Prasad Son of Late Vasudeo Prasad resident of Mohalla- North
Mandiri, Ward No 28, PS- Budha Colony, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
2. The Divisional Commissioner, Patna Division, Patna.
3. The Collector, Patna.
4. The Additional Collector, Patna.
5. The Subdivision Magistrate, Patna Sadar, Patna.
6. The Deputy Collector, Land Reforms, Patna Sadar, Patna.
7. The Circle Officer, Patna Sadar, Patna.
8. The Officer-in-charge, Budha Colony, Police Station, Patna.
9. Ashok Kumar Yadav Son of Late Fauzdari Yadav resident of Mohalla- North Mandiri, PS.- Budha Colony, Distt- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhay Kumar Jha
For the Respondent/s : Mr. RISHI RAJ SINHA-SC19

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 12-10-2017 Heard Mr. Abhay Kumar Jha, learned Counsel appearing
on behalf of the petitioner and learned Counsel for the
respondent - State.

Since no counter affidavit has been filed till date, in the
Writ application which was filed in 2016, this Court is not
inclined to adjourn the matter any further.

This Court is also not inclined to issue notice to respondent
no.9, namely, Ashok Kumar Yadav, in view of nature of order
this Court intends to pass.

The present Writ application has been filed for a direction



to the respondent authorities to get the encroachment removed, in view of the letter no.5082, dated 15.09.2014, as contained in Annexure-2, from the government land appertaining to Thana No.4, Khata No.22, Plot No. 713, situated in Mauza-Duzra, North Mandiri, Patna, by initiating a proceeding under the provisions of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act').

It is submitted by learned Counsel for the petitioner that the land in question is a public land and there was proposal for construction of Rajaswa Karmachari Bhawan, but the land in question has been encroached upon by respondent no.9. On a public petition, filed by the resident of the North Mandiri Patna, respondent no.4, the Additional Collector, Patna, vide letter no.1751, dated 20.06.2014, directed respondent no.7, the Circle Officer, Patna Sadar, Patna, to get the encroachment removed from the land in question. Consequently, vide Memo No. 5082, dated 15.09.2014, as contained in Annexure-2, the Circle Officer directed respondent no.9 to remove the encroachment from the land in question within a period of one week, failing which action will be taken for removal of the encroachment, but till date encroachment has not been removed.

It appears from the notice that no formal proceeding under



the Act has been initiated. However, the notice contained in Annexure-2 has been challenged by respondent no.9 in CWJC No.17196 of 2014, but the same is still pending. Hence, the present Writ application.

Learned Counsel appearing on behalf of the respondent – State submits that at present he is not having any instruction whether the encroachment proceeding has been initiated or the encroachment has been removed.

The *sine qua non* for initiation of proceeding under the Bihar Public Land Encroachment Act (herein after referred to as ‘the Act’) is that it should appear to the Collector under the Act, either on application made by any person or upon information received from any source that any person has made or is responsible for the continuance of any encroachment upon any public land.

No doubt in the present case, the Circle Officer, was directed by the Additional Collector, Patna vide letter no.1751, dated 20.06.2014, in pursuance to a public petition submitted by the petitioner and others to get the encroachment removed from land in question, but it is surprising that since 2014 no formal proceeding has been initiated till date.

In the circumstances, respondent no. 7, the Circle



Officer, Patna Sadar, Patna, is expected to examine the records, if need be make spot inspection, thereafter if it appears to him that any encroachment has been made on the public land/road in question, then he will initiate a proceeding under the Act forthwith and will take such proceeding to its logical conclusion, within a period of three months, after giving due opportunity of hearing to all the affected persons, including respondent no.9 in accordance with the provisions of the Act.

The Writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

Ashwini/-

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