

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17273 of 2016

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1. Ashok Bin, Son of Sri Kisun Bin, resident of Village- Kotwa Khas Tola Kolrahi, P.S. Kateya, District- Gopalganj.
 2. Ram Chabila Sah, Son of Late Ramai Sah, Resident of Village- Kotwa Khas Tola, Kolrahi, P.S. Kateya, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Gopalganj.
3. The Sub Divisional Officer, Mirganj, Hathua, District- Gopalganj.
4. The Circle Officer, Kateya.
5. The District Engineer District Board, Gopalganj.
6. The Assistant, Kateya Circle Office, District Gopalganj.
7. The Karamchari Kateya Circle Office, District- Gopalganj.
8. The Amin, Zila Parisad, District Gopalganj.
9. The Officer Incharge Kateya Police Station, District- Gopalganj.
10. Sharma Kurmi, Son of Nathuni Kurmi.
11. Arjun Kurmi, Son of Nathuni Kurmi.
12. Ram Jee Chaudhary, Son of Late Somari Choudhary.
13. Inar Chaoudhary, Son of Somari Choudhary.
14. Samayan Sah, Son of Ganhor Sah.
15. Jamure Sah, Son of Ganhor Sah.
16. Akhtar Mian, Son of Khalil Mian.
17. Ashgar Mian, Son of Khalil Mian.
18. Som Nayak Sah, Son of Late Ramawatar Sah.
19. Ayodhaya Sah, Son of late Ramawatar Sah.
20. Paras Sah, Son of Late Ramawatar Sah.
21. Dilip Sah, Son of Late Ramawatar Sah.
22. Bindhayachhal Sah, Son of Lal Ji Sah.
23. Ramashray Sah, Son of Late Ganour Sah.
24. Yamuna Sah, Son of Late Ganour Sah.
25. Vakil Miayan, Son of Late Faujdar Mian.
26. Raj Mangal Manjhi Son of Gharmaran Manjhi.
27. Uma Shankar Manjhi, Son of Gharmaran Manjhi.
28. Subhash Sah, Son of Gharmaran Manjhi.
29. Prabhunath Pandey, Son of Late Gharmaran Pandey.
30. Raj Kumar Gond, So of Late Ramdhan Gond.
31. Santosh Gond, Son of Late Ramdhan Gond.
32. Ramdas Sah, Son of Late Ramdhan Gond.

All are resident of Vill- Kotwa Khas P.S.- Kateya Dist.- Gopalganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Srivastava, Adv
For the Respondent/s : MD.KHURSHID ALAM-AAG12

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH



ORAL ORDER

2 12-10-2017 Heard Mr. Ranjan Kumar Srivastava, learned Counsel appearing on behalf of the petitioners 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 nos. 10 to 32, in view of nature of order this Court intends to pass.

The present Writ application has been filed for a direction to respondent authorities to get the encroachment removed from a land appertaining to Khata No. 88, Plot No.309 at Mauza-Kotna Khas, P.S.-Kateya, District – Gopalganj, which is a public road belonging to the Zila Parishad, but the same has been encroached upon by the private respondents. The petitioner's raiyati land appertain to Khata No.470, Plot No.448, 458 and Khata No.66, Plot No. 308 is adjacent to the public land. Petitioner no.1, Ashok Bin and others, submitted a representation dated 10.09.2015 to the District Engineer, Road Construction Department, Gopalganj, Zila Parishad and copy of the said representation has been submitted to the Collector, Gopalganj, DCLR, Circle Officer and SHO, Kateya, for getting



the area measured and get the encroachment removed. However, the Amin of the District Board, Gopalganj, on 11.12.2015 submitted a measurement report dated 11.12.2015 to the District Engineer, Zila Parishad, Gopalganj, as contained in Annexure-1, stating therein that the road in question is Khatiyani land of Zila Parishad which is used as a public road, but the same has been encroached upon by Ramjeet Chaudhary and others by erecting a wall. The said report was forwarded by the District Magistrate, to the Circle Officer for taking necessary action, but till date encroachment has not been removed. It is further submitted by learned Counsel for the petitioner that the land in question is a raiyati land in the name of Zila Parishad and is being used as a public road, which gets reflected from Annexures-2 and 3.

Learned Counsel for the respondent -State submits that at present he is not having any instruction whether any encroachment proceeding has been initiated or 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.

In the circumstances, respondent no. 4, the Circle Officer, Kateya, 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 nos. 10 to 32 in accordance with the provisions of the Act.

The Writ application is, accordingly, disposed of.

Ashwini/-

(Dinesh Kumar Singh, J)

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