

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11196 of 2015

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Tej Narayan Singh Son of late Sukhdeo Singh Resident of Mohalla- Belbanwa, P.s
Motihari Town, District East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, East Champaran at Motihari.
2. The Block Development officer, Motihari Block , East champaran.
3. The Circle Officer ,Motihari Block, Motihari.
4. Madan kumar son of late Rampal Kumar
5. Awadhesh Prasad Son of late Banke Bihari Verma
6. Siyadeo kumar son of late Mahendra Kumar
7. Saili Devi Wife of Late Awadhesh Singh
8. Shambhu Singh son of late Singhashan Singh
9. Denesh Ojha Son of late Pandit Narendeshwar Ojha
10. Jhshmul Haque Son of late Shamshul Haque
11. Kamlesh Singh Son of late Ramchandra Singh
12. Surajdeo singh Son of late Ramchandra Singh
13. Ambika Dutt Son of late Sachitanand Singh All are Resident of Mohalla
Belbanwa , P.s Motihari Town, District East Champaran..

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dilip Kumar Tondon
For the Respondent/s : Mr. N.K. SINGH- SC2

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date: 17-04-2017

Heard learned counsel for the petitioner and learned
A.C. to S.C.-13 for respondent nos. 1 to 3.

The present writ application has been filed with a prayer
for issuance of direction to respondent authorities to remove the
encroachment made by respondent nos. 4 to 13 on the public road
appertaining to Khata No. 154, Plot No. 23, situated in Mohalla
Belabanwa in the District of Motihari. The said public road runs from



Gorakhnath Dwar through Belbanwas Mohalla via ward no. 23 to Anandpuri, Shivpuri, Shantipuri Mohalla.

It is submitted by the learned counsel for the petitioner that a petition, for removal of encroachment from the land in question, was submitted on 10.02.2011, as contained in Annexure-1, before the Collector, East Champaran, Motihari, respondent no.1. The said application was registered and numbered as '343' dated 11.02.2011, but no action was taken, then the petitioner sought information under RTI, Act. Thereafter, the petitioner, vide letter no. 1883 dated 13.12.2011, as contained in Annexure-2, was informed that the application of the petitioner has been endorsed to the Circle Officer, Motihari, respondent no.3 for enquiry and necessary action but there was no information as to whether the encroachment has been removed or not. Thereafter, under RTI, Act information was supplied to the petitioner by the office of the Circle Officer, Motihari, as contained in Annexure-3, that in pursuance to the order of the Circle Officer, Circle Amin submitted a report on 17.10.2012 to the effect that the land in question has been encroached by ten persons who are respondent nos. 4 to 13 in the present proceeding and also recommended for initiation of encroachment proceeding after giving due notice but till date encroachment proceeding has not been initiated. In pursuance to further query made under RTI, Act, the



Circle Officer, Motihari, vide letter no. 528 dated 26.03.2012, as contained in Annexure-4, information was provided to the petitioner to the effect that measurement is going on and on completion of measurement, encroachment proceeding will be initiated but the same was not initiated, hence ultimately, an application was submitted on 21.03.2014 on behalf of the petitioner before Janta Darbar of the District Magistrate, Motihari, respondent no.1, but till date no action has been taken.

Learned A.C. to S.C.-13 submits that at present he has no instruction with regard to initiation of encroachment proceeding or removal of encroachment.

Considering the rival submission of the parties, this Court is dismayed to find the callous manner in which the office of respondent nos. 1 and 3 are functioning. The first petition for removal of encroachment was submitted before respondent no.1 on 10.02.2011, as contained in Annexure-1, which was numbered as 343 and marked to the Circle Officer for enquiry, for taking needful action, but office of respondent no.1 has failed to provide the information since his office does not have any knowledge with regard to any action having been taken in this regard. The Circle Amin submitted the report on 17.10.2012 after measurement of land in question to the effect that public road has been encroached upon but



till date the slumber of respondent nos. 1 and 3 has not broken.

In the circumstances, respondent nos. 1 and 3 are directed to look into the matter and dispose of the representations of the petitioners dated 10.02.2011, as contained in Annexure-1, and dated 21.03.2014, as contained in Annexure-5, and if required, initiate the encroachment proceeding if it has already not been initiated and if it is found that encroachment has been made on the public road then the concerned authority will take the proceeding to its logical conclusion after giving due opportunity of being heard to all affected persons within a period of three months.

It is expected from respondent no.1 to take action against all the persons who are responsible for their inaction by not conducting enquiry or initiating the required proceeding and taking it to a logical conclusion, since the last six years.

Accordingly, with the above observation, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	08/05/2017
Transmission Date	N/A

