

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9420 of 2014

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Bhupendra Singh, Son of Late Goverdhan Singh, Resident of village-
Darauli, P.S.- Bhabua, District- Kaimur (Bhabua)

.... Petitioner/s

Versus

1. The State of Bihar
2. District Magistrate-Cum-Collector, Kaimur (Bhabua)
3. Sub- Divisional Officer, Bhabua, District- Kaimur (Bhabua)
4. Circle Officer, Bhabua, District- Kaimur (Bhabua)
5. Tulsi Bind, Son of Ram Brich Bind, Resident of village- Ruiya (Tola Mahuwa Wari), P.S.- Bhabua, District- Kaimur (Bhabua)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Sunil, Adv.

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 18-07-2017 Heard learned counsel appearing on behalf of the petitioner and learned AC to GA-2 appearing on behalf of the respondent State.

The present writ application has been filed for a direction to respondent authorities to get the encroachment removed made over the land pertaining to Chak Khata No.264 (Survey Khata No.292), Chak Plot No. 436 (Survey Plot No.393), Thana No. 512, measuring an area 5 acres 30 decimals, situated in Village- Ruiya, P.S.- Bhabua, District – Kaimur (Bhabua) as the land in question has been recorded as “Anabad Sarv Sadharan (Chawar), which is being used as “Aam Rasta”, but the same has



been encroached by Respondent No.5.

The alternative prayer has been made for a direction to Respondent No.4, the Circle Officer, Bhabua, to conclude the Encroachment Case No. 11/2013-14 and in the meantime, the Respondent No.5 be restrained from making any construction over the land in question.

It is submitted by learned Counsel appearing on behalf of the petitioner that the land in question has been recorded as “Anabad Sarv Sadharan (Chawar), which is being used as “Aam Rasta”, but the same has been encroached by Respondent No.7. The petitioner sought Information with regard to the nature of the land recorded in the Khatiyani under the Right to Information Act, wherein, he was supplied the information that the land in question has been recorded as “Anabad Sarv Sadharan (Chawar), the said information has been brought on record as Annexure-1 to the writ petition. The petitioner filed a representation on 25/02/2013, before Respondent No.3, the Sub-Divisional Officer, Bhabua, as contained in Annexure-2 with a prayer for getting the encroachment removed from the land in question. The representation of the petitioner was forwarded to Respondent No.4, the Circle Officer, Bhabua. In pursuance to the representation of the petitioner, the Circle Officer, Bhabua, issued



a public notice, whereby, Respondent No.5 was directed to remove the encroachment from the land in question by 18/06/2013. The public notice has been brought on record as Annexure-3 to the writ application. Subsequently, Encroachment Case No. 11/2013-14 has been initiated, but during last four years, it has not been concluded, in spite of the fact that the petitioner filed fresh representation on 31/01/2014, before Respondent No.4, the Circle Officer, Bhabua, Kaimur, as contained in Annexure-4 to the writ application. Hence, the present writ application.

In view of the relief prayed for and the fact that the writ application has been filed on 12/06/2014, but the counter affidavit has not been filed till date, this Court is not inclined to adjourn the matter any further. However, this Court intends to pass such order which does not require issuance of notice to the private respondents.

It is submitted by learned AC to GA-2, that, at present, he does not have any instruction, as to whether the encroachment proceeding has been concluded, or the encroachment has been removed.

This Court is dismayed to find that encroachment proceeding was initiated in 2013-14, but till date, the same has not been concluded. The public notice, as contained in Annexure-3,



does not reflect that under which proceeding the same has been issued.

Under the circumstances, it is expected from Respondent No.4, the Circle Officer, Bhabua, to conclude the proceeding of encroachment Case No.11/213-14, within a period of three months, provided such proceeding has not already been concluded, after giving due opportunity of hearing to all the affected persons under the provisions of the Bihar Public Land Encroachment Act.

Accordingly, the writ application is disposed of.

(Dinesh Kumar Singh, J)

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