

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21446 of 2014

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1. Rajeev Nath Pathak S/o Baidyanath Pathak R/o Village Bhainsdira, P.S. Barari,
District Katihar.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Land Reforms Department, Govt.
of Bihar, Patna.
2. The District Magistrate, Katihar, District Katihar.
3. The Sub Divisional Officer, Katihar, District Katihar.
4. The Circle Officer, Barari, District Katihar.
5. Sri Manohar Parihar @ Choudhary S/o Ganeshi Parihar
6. Manoj Parihar @ Choudhary S/o Ganeshi Parihar
7. Sanjay Parihar @ Choudhary S/o Ganeshi Parihar Respondent No. 5 to 7 are
Resident of Village Bhainsdira, P.S. Barari, District Katihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shardanand Mishra,
Mr. Ranjan Kumar Jha, Advocates
For the Respondent/s : Mr. Ranjan Kr. Singh, AC to PAAG-2

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 27-03-2017

Heard learned counsels for the parties.

The present writ application has been filed for a
direction to the respondent authorities for removal of encroachment
over the government land appertaining to Khata No. 668, Plot No.
1561 being a public road. The house of the petitioner is situated in
front of the said government road appertaining to Thana No. 88,
Khata No. 394, Plot No. 1935 in Mauza Laxmipur, P.S. Barari in the
District of Katihar.

It is submitted by learned counsel for the petitioner that



due to the encroachment made by respondent nos. 5 to 7 over the government land, the ingress and outgress of the petitioner has substantially been obstructed. The petitioner filed an application before the respondent no. 4, the Circle Officer, Barari on 17.3.2004 (Annexure 2) with a prayer for removal of the encroachment from the public road. Consequently, respondent no. 4 vide order dated 17.3.2004 directed the Anchal Amin and Revenue Karmchari to submit report, whereafter the Halka Karmchari submitted a report on 23.3.2004 to the respondent no. 4 suggesting that in front of the land/house of the petitioner the respondent nos. 5 to 7 have made encroachment over the land appertaining to Khata No. 668, Plot No. 1561. The report of Halka Karmchari has been brought on record as Annexure 3 series.

Consequently, respondent no. 4 the Circle Officer issued notice on 21.4.2004 and 29.4.2005 (Annexures 4 and 5) to respondent nos. 5 to 7 to submit show cause as to why the encroachment over the public land be not removed. But till date the encroachment has not been removed. Ultimately, the petitioner submitted representation to the respondent no. 2 the District Magistrate, Katihar on 24.5.2004 as contained in Annexure 6, and to the Officer Incharge, Barari Police station on 12.5.2012 as contained in Annexure 7. Similar representation was transmitted by the petitioner to the respondent no.



4 on 23.8.2014 through registered post as contained in Annexure 8 but the encroachment has not been removed. It is further submitted that till date no encroachment proceeding has been initiated.

A.C. to P.A.A.G. 2 submits that he has no instruction in the matter with regard to removal of the encroachment from the alleged public road.

Learned counsel for the petitioner submits that he confines his prayer only to the extent of disposal of the representations as contained in Annexures – 2 and 8.

Considering the rival submissions of the parties, it shocks the conscience of this court that since last thirteen years the issue of removal of encroachment has been pending, in spite of the fact that respondent no. 4, on the basis of report of Halka Karmchari and Amin, came to know that public road has been encroached.

In the circumstances, it is imperative on the part of the respondent no. 2, the District Magistrate, Katihar to see that the representations of the petitioner (Annexures 2 & 8) are disposed of and if the encroachment proceeding has already not been initiated or if, prima facie, such proceeding is required to be initiated, then to initiate such proceeding and conclude the same after giving due opportunity of being heard to all affected persons in accordance with the provisions of Bihar Public Land Encroachment Act, within a



period of four months from the date of receipt/production of a copy of this order.

With the aforesaid observation/direction, this writ application stand disposed of.

(Dinesh Kumar Singh, J)

Anil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA

