

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10115 of 2013

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1. Onkar Nath Choudhary Son Of Late Kali Prasad Choudhary Resident Of Village
- Bhelahi, P.O. Bhelahi, P.S. Palanwa, P.O. Bhelahi, District - East Champaran

.... Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Motihari, East Champaran
3. The Superintendent Of Police, Motihari, East Champaran
4. Sub Divisional Officer, Raxaul, East Champaran
5. Officer Incharge, Palanwa Police Station O.P. Bhelahi, Raxaul, East Champaran
6. Zila Parishad Through The Chief Executive Officer, Motihari, East Champaran
7. Superintending Engineer, Zila Parishad, Motihari, East Champaran
8. Satya Narayan Raut Son Of Late Basudeo Raut Resident Of Village - Bhelahi,
P.O. Bhelahi, P.S. Palanwa, P.O. Bhelahi, District - East Champaran
9. Prabhu Raut Son Of Late Basudeo Raut Resident Of Village - Bhelahi, P.O.
Bhelahi, P.S. Palanwa, P.O. Bhelahi, District - East Champaran
10. Sharwan Raut Son Of Late Basudeo Raut Resident Of Village - Bhelahi, P.O.
Bhelahi, P.S. Palanwa, P.O. Bhelahi, District - East Champaran
11. Rajan Raut Son Of Late Ganesh Raut Resident Of Village - Bhelahi, P.O.
Bhelahi, P.S. Palanwa, P.O. Bhelahi, District - East Champaran
12. Dharmbir Chaurasiya Son Of Bhola Chaurasiya Resident Of Village - Bhelahi,
P.O. Bhelahi, P.S. Palanwa, P.O. Bhelahi, District - East Champaran
13. Rajesh Patel Son Of Jagarnath Patel Resident Of Village - Bhelahi, P.O.
Bhelahi, P.S. Palanwa, P.O. Bhelahi, District - East Champaran
14. Ram Babu Patel Son Of Binda Patel Resident Of Village - Bhelahi, P.O.
Bhelahi, P.S. Palanwa, P.O. Bhelahi, District - East Champaran
15. Kapildeo Patel Son Of Bira Bhagat Resident Of Village - Bhelahi, P.O.
Bhelahi, P.S. Palanwa, P.O. Bhelahi, District - East Champaran
16. Ajay Patel Son Of Late Jagdish Patel Resident Of Village - Bhelahi, P.O.
Bhelahi, P.S. Palanwa, P.O. Bhelahi, District - East Champaran
17. Kanti Devi Wife Of Late Srikant Raut Resident Of Village - Bhelahi, P.O.
Bhelahi, P.S. Palanwa, P.O. Bhelahi, District - East Champaran

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar No.2, Adv.
For the State	:	Mr. G.A.-5
For Resp. Nos 6 &7	:	Mr. Sanjay Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date: 19-04-2017

Heard learned counsels for the petitioner and respondent



nos. 6 and 7 and learned G.A.-5 for respondent nos. 1 to 6.

The nature of order, this Court intends to pass does not require issuance of notice to private respondent nos. 8 to 17.

The present writ application has been filed with a prayer for a direction to respondent no.2, the District Magistrate, Motihari, East Champaran to get the encroachment removed from the land appertaining to Plot No. 2799 which is a public land belonging to Zila Parisad, Motihari, East Champaran but the same has been encroached by respondent nos. 8 to 17.

It is submitted by the learned counsel for the petitioner that the land in question is a public land and is being used by public as road but the said land in question has been encroached by respondent nos. 8 to 17 in spite of order dated 17.07.1998, as contained in Annexure-3, passed in Case No. 294M of 1998 under Section 133 Cr.P.C.

Learned counsel for the Zila Parisad and learned G.A-5 submit that at present they do not have any specific instructions with regard to initiation of encroachment proceeding or about the removal of encroachment or execution/implementation of order dated 17.07.1998, as contained in Annexure-3 passed in Case No. 294M of 1998, but if the said order has not been executed/implemented then it will be executed/implemented and if requires, the necessary



proceeding under Bihar Public Land Encroachment Act will be initiated and it will be taken to its logical conclusion within a period of three months.

Considering the present stand of learned counsel for Zila Parisad and learned G.A.-5, the present writ application is disposed of with a direction to respondent no.2, the District Magistrate, Motihari, East Champaran to look into the matter and take needful action and if the encroachment is found existing on the public land and if any fresh proceeding needs to be initiated under 133 Cr. P.C. or under the Bihar Public Land Encroachment Act, the same should be initiated and should be taken to its logical conclusion within a period of three months.

(Dinesh Kumar Singh, J)

Amrendra/-

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

