

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12115 of 2013

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Bidya Nand Prasad Son of late Lakhan Mahto Resident of Village- Jalgovind, P.S.
Barh, District- Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate Patna
3. The Sub-Divisional Officer Barh
4. The Deputy Collector Land Reforms Barh
5. The Circle Officer Barh
6. The Anchal Amin Circle Barh, District- Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date: 02-05-2017

Heard learned counsel for the petitioner and learned
G.P.-16 appearing on behalf of respondents.

The present writ application has been filed for a
direction to the respondent authorities to hold enquiry and initiate
encroachment proceeding for removal of encroachment over the
land appertaining to Khata No. 3114, Plot No. 127, Thana No. 77
situated in the Village Jalgovind in the District of Patna.

It is submitted by the learned counsel for the
petitioner that the land in question is a public road known as
Jalgobind Harnaut road and is recorded in the revenue record as
'Gairmajarua Aam Road'. The said road has been encroached upon



by certain persons whose names have been disclosed in the report of the Circle Amin and Halka Karamchari, though they have not been made party respondent in the present proceeding.

Initially, the petitioner submitted a representation for redressal of his grievance on 16.09.2005, as contained in Annexure-1, to the Sub-divisional Officer, Barh, respondent no 3. On the representation of the petitioner, Sub-divisional Officer, Barh directed the Circle Officer, Barh, respondent no.5, to submit a report. Subsequently, the Circle Officer, Barh directed the Circle Amin to make the measurement of the land in question and to submit a report. The Circle Amin measured the land and submitted the report to the Circle Officer, Barh, as contained in Annexures- 2 and 3, to the effect that the road in question has been encroached upon, by five persons namely Lalan Paswan, Durga Paswan, Rami Paswan, Ramashis Paswan and Ramkhushi Ram. Similar report was submitted by the Sub-Inspector of Police, Barh. Ultimately, the representation was submitted to the District Magistrate, Patna on 17.01.2013, as contained in Annexure-5, for removal of the encroachment, but neither the encroachment has been removed nor any proceeding has been initiated till date.

Learned G.P.-16 submits that the land in question is a public road which is recorded in the revenue record as Gairmajarua



Aam road. It is further submitted that on the basis of report of Halka Karamchari and Circle Amin, Encroachment Case No. 02 of 2013-14 has been initiated and notices have been issued and after disposal of the encroachment proceeding, the encroachment will be removed. Statements to that effect has been made in paragraph nos. 10 and 11 of the counter affidavit filed on behalf of respondent nos. 3 and 5 which read as follows:-

“10. That the statement made in paragraph no.5 to 8 of the writ petition, it is stated that, the matter has been enquired by the Anchal Amin & Halka Karmchari. On the report of Anchal Amin & Halka Karmchari, Encroachment Case No. 02 of 2013-14 has been initiated against the encroachers and notices were issued against the encroachers.

11. That the statements/allegations, made in Paragraph nos. 9 & 10 of the writ petition, are denied. The Encroachment Case No. 02/2013-14 has already been initiated against the encroachers, notices were issued against them. After disposal of the said encroachment case the encroachment over land in question (if any) will be removed.....”

The counter affidavit has been filed on 21.05.2014, but there is nothing on record to suggest the present stage of said encroachment proceeding.



Having heard the counsel for the parties, this Court is dismayed to find that the representation for removal of encroachment from the public road, was submitted in the year 2005 and in the year 2005 itself and the respondent authorities, particularly respondent no.5 acknowledged that encroachment is existing on the public road, but it appears that ultimately after filing of the present writ application, empty formality was done by initiating the encroachment proceeding which has not been disposed of till date. The District Magistrate, Patna should look into the matter, as to in what callous manner the officers subordinate to him are functioning.

It is expected from the Circle Officer, Barh, respondent no. 5 to take the proceeding of Encroachment Case No. 02 of 2013-14 to its logical conclusion within a period of ten weeks after giving due opportunity of being heard to all affected persons under the provisions of Bihar Public Land Encroachment Act.

It is expected from the District Magistrate, Patna, respondent no.2 to see that the proceeding should be concluded in accordance with law within a reasonable time frame and undertaking, as stipulated in para 11 of the counter affidavit, should be complied with.

Accordingly, with the above observation and



direction, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	09/05/2017
Transmission Date	N/A

