

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.18387 of 2015**

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Md. Wasil S/o Md. Zameer, resident of Village- Dhanauli, P.S.- Baheri,  
District- Darbhanga

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Darbhanga.
2. The District Magistrate, Darbhanga.
3. The Sub-Divisional Officer, Sadar, Darbhanga.
4. The Circle Officer, Baheri, Darbhanga.
5. The Station House Officer, Baheri, Darbhanga.
6. Chalitra Mandal S/o Ganayr Mandal
7. Narain Mandal S/o Bhatu Mandal
8. Dilip Mandal S/o Ganesh Mandal
9. Sandeep Mandal S/o Narpati Mandal
10. Triath Yadav S/o Chaliter Yadav Respondent No. 6 to 10 all resident of Village Dhanauli, P.S. Baheri, District- Darbhanga.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Dharmendra Jha  
For the Respondent/s : Mr. Sanjay Kumar, AC to SC 15

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**  
**ORAL JUDGMENT**

***Date : 02-11-2017***

Heard learned counsels for the parties.

Since the writ application was filed in 2015 and till date no counter affidavit has been filed, this Court is not inclined to adjourn the matter.

The nature of order this Court intends to pass, does not require issuance of notice to respondent nos.6 to 10.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the public road appertaining to Khata No. 398, Survey Plot No. 1377 (old) 3092 and 1305 (new) which runs t from west to the house of the petitioner and also from the road appertaining to Plot No. 1189 (old), 1266(old) which runs from north to the



residential house of the petitioner, situated in village Dhanauli District of Darbhanga.

It is submitted by learned counsel for the petitioner that the petitioner got his house constructed on Plot Nos. 1390,1301,1297 and 1298 and both the roads in question run towards north and west to the residential house of the petitioner but the same has been encroached upon by respondent nos. 6 to 10. Both the roads connect the village to the main road but due to encroachment made by the respondents, the petitioner is unable to reach to the road. In the revisional survey map both the roads are mentioned. The petitioner submitted an application before the respondent no.4, the Circle Officer, Baheri but he did not take any action. Thereafter, the petitioner submitted an application before the respondent no.3, the SDO, Sadar, Darbhanga on 21.4.2015, as contained in Annexure 1, for initiating a proceeding under section 133 of the Cr.P.C. The respondent no.3, SDO, Sadar, Darbhanga called for a report from the respondent no.4, the Circle Officer, Baheri and respondent no. 5, SHO, Baheri but till date no report has been submitted. Hence, the present writ application.

Learned counsel for the respondents State submits that he is having no instruction whether the land in question is a public road or whether any proceeding has been initiated for removal of encroachment.

A proceeding under the Bihar Public land Encroachment Act (hereinafter referred to as the 'Act'), can be initiated if it appears to the Collector under the Act from an application made by any person or upon the information received from any source that any person has made or is responsible for the continuation of



encroachment upon any public land.

No doubt, in the present case, the application submitted by the petitioner before the respondent no.4, the Circle Officer, Baheri has not been brought on record. It appears that the respondent no.3, SDO, Sadar, Darbhanga, vide order dated 21.4.2015 called for a report from the respondent no.4, the Circle Officer, Baheri but there is nothing on record to suggest that any report was submitted.

In the circumstances, the petitioner is permitted to submit an application before the respondent no.4, the Circle Officer, Baheri giving details of the land in question and the nature of encroachment made, whereupon, the respondent no.4, the Circle Officer, Baheri will verify the revenue records and if need be, make a spot verification thereafter if it appears to him that the public road or public land has been encroached upon, then he will initiate the proceeding under the Act within two weeks of the receipt/production of a copy of this order and will take such proceedings to its logical conclusion within a period of three months, after giving due opportunity of hearing to all affected persons in accordance with the provisions of the Act.

This writ application is, accordingly, disposed of.

**(Dinesh Kumar Singh, J)**

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