

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5858 of 2014

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Rajiv Kumar Singh, Son of Sri Umeshwar Pd. Singh, Resident of Village +
P.O. - Harpur Bochaha, P.S. - Vidyapati Nagar, Sub- Division -
Dalsinghsarai, District - Samastipur

.... Petitioner/s

Versus

1. The State of Bihar Through The Chief Secretary, Old Secretariat, Patna
2. The District Magistrate-Cum-Collector, Samastipur
3. The Sub-Divisional Officer Dalsinghsarai, Samastipur
4. The Additional Collector, Samastipur
5. The Circle Officer Vidyapatnagar, Samastipur
6. The Circle Inspector Vidyapatnagar, Samastipur
7. The Revenue Karamchari Halka No. 8 Vidyapatnagar, Samastipur
8. Hari Prasad Singh Son Of Late Triveni Pd. Singh
9. Manoj Kumar Singh
10. Sudhesh Pd. Singh
11. Mukesh Pd. Singh
12. Satya Prakash Singh All Sons Of Hari Pd. Singh All Resident No. 8 To
12 Are Resident Of Vill. + P.O. Harpur Bochaha, P.S. - Vidyapati Nagar,
Sub- Division - Dalsingh Sarai, District - Samastipur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manish

For the Respondent/s : Mr. AC to G.P. 5

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

2 06-07-2017

Heard Mr. Manish, learned counsel for the
petitioner and learned A.C. to G.P.-5 appearing on behalf of
respondent nos. 1 to 7.

The nature of order this Court intends to pass,
does not require issuance of notice to private respondent nos. 9
to 12.

Since, the present writ application was registered



on 21.03.2014 and till date no counter affidavit has been filed, this Court is not inclined to adjourn the matter any further and keep the same pending.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the public land pertaining to Khata No. 1265, Plot No. 805, Thana No. 123, situated in Mauza Harpur Bochaha, Circle Dalsinghsarai, District Samastipur, which has been encroached by respondent nos. 8 to 12.

It is submitted by learned counsel for the petitioner that, at present, the petitioner confines his prayer only for issuance of direction to the respondent authorities to initiate an appropriate proceeding under Bihar Public Land Encroachment Act (hereinafter referred to as 'the Act') and take it to its logical conclusion within a time frame, in view of the report of Revenue Karmchari dated 9.4.2013, as contained in Annexure 5, which suggests that the public land has been encroached by the private respondents and others. It is further submitted that the land in question is recorded in continuous Khatian of Mauza Harpur Bochaha, as contained in Annexure-1, as Anabad Bihar Sarkar. An application was submitted before respondent no.5, the Circle Officer, Vidyapatnagar for



removal of encroachment from the said land as far back as on 8.4.2013, as contained in Annexure-2. Thereafter, when no action was taken by the Circle Officer, the petitioner along with the villagers submitted an application in the Janta Darbar of Collector, Samastipur which was registered as Complain No. 705 and receipt was issued on 14.02.2013 by the In-Charge Officer, District Public Complain Section, Samastipur. Consequently, the respondent no. 5, Circle Officer, Vidyapatinagar, vide letter no. 222, dated 2.5.2013, as contained in Annexure 4, intimated to the In-charge Officer, Public Grievance Redressal Cell, Samastipur, that in view of the representation of the villagers, an enquiry was conducted and it was found that the land in question was encroached by respondent no. 8 and his sons, but the action will be taken after measurement by Anchal Amin. Consequently, Halka Karmchari, Vidyapatinagar was directed to submit a report and the said report was submitted on 09.04.2013, as contained in Annexure-5, suggesting that the encroachment has been made on the land in question, but the encroachment was not removed in spite of application being submitted on 22.12.2015 to the District Magistrate, Samastipur, respondent no.2. Hence, the present writ application.



Learned A.C. to G.P.-5 submits that respondent no. 5, the Circle Officer, Vidyapatinagar may be directed to initiate a proceeding under the Act and to conclude the same within a time frame. However, he is not in a position to state whether any such proceeding has been initiated or not.

Having heard the rival submissions of learned counsels for the parties, this fact has not been disputed by the counsel for the official respondent that the land in question is a public land. The materials on record, particularly, the report of the Halka Karamchari, suggest that the land in question is a public land and the same has been encroached. For initiating a proceeding under Section 3 of the Act, the only precondition is that if it appears to the Collector from an application made by any person or upon information received from any sources that any person has made or is responsible for the continuance of any encroachment upon any public land. In the present case, from the representations submitted by the petitioner in the year 2013, to respondent no.2, the District Magistrate, Samastipur and respondent no.5, the Circle Officer, Vidyapatinagar, this much is apparent that they had the information about the encroachment on a public land. This fact further gets verified from the report of the Halka Karamchari, but in spite of that,



proceeding was not initiated.

In the circumstances, this Court directs the respondent no.5, the Circle Officer, Vidyapatnagar to examine the matter and if it appears to him that the public land has been encroached upon, then initiate an appropriate proceeding under the Act, if the same has already not been initiated, within a period of two weeks from the date of receipt/production of a copy of this order and take the same to its logical conclusion within a period of four weeks, after giving due opportunity of hearing to all affected persons, in accordance with the provisions of the Act.

Accordingly, this writ application is disposed of.

(Dinesh Kumar Singh, J)

Anil/-

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