

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17337 of 2014

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Gagan Kumar Mishra @ Gagan Mishra, S/o Late Kula Nand Mishra,
Resident of Village Rasiyari, P.S.-Ghanshyampur, District-Darbhangha.

.... Petitioner

Versus

1. The State of Bihar.
2. The Secretary, Land and Reforms, Government of Bihar, Patna.
3. The District Magistrate-cum-Collector, Darbhanga.
4. The Lokayukt, Government of Bihar, Patna having his office 4, Kautilya Marg, Bailey Road, Rajwansi Nagar, Patna.
5. The Sub Divisional Officer, Biraul, Darbhanga.
6. The Circle Officer, Kiratpur Block, District Darbhanga.
7. The Superintendent of Police, Darbhanga.
8. The Officer-in-Charge, Ghanshyampur P.S., District Darbhanga.
9. Umesh Mishra, S/o Late Narayan Mishra, R/o Village Rasiyari, P.S.-Ghanshyampur, District-Darbhangha.
10. Biswanath Jha, S/o Late Bucchi Jha, R/o Village Rasiyari, P.S.-Ghanshyampur, District Darbhanga.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Jha, Adv.

For the Respondent/s : Mr. Dharmendra Kumar, A.C. to A.A.G.-1

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 17-08-2017 Heard Mr. Pankaj Kumar Jha, learned counsel for the

petitioner and Mr. Dharmendra Kumar, learned A.C. to A.A.G.-1

for respondent nos. 1 to 8.

The nature of order this Court intends to pass does not
require issuance of notice to private respondent nos. 9 and 10.

The present writ application has been filed for a
direction to the respondent authorities to get the encroachment
removed over a public land, which is used by the villagers as



public road, though a well is also existing on the land appertaining to Thana No. 402, Old Plot No. 2541, New Plot Nos. 4103, 4105, 4106, 4107 and 4108, situated in Village Rasiyari, P.S. Ghanshyampur, District Darbhanga.

It is submitted by learned counsel for the petitioner that the land in question is recorded in the records of right as 'Anabad Bihar Sarkar/Anabad Sarva Sadharan' on which a well is existing and the said land is used by public at large as public road, but the same has been encroached upon by respondent nos. 9 and 10, Umesh Mishra and Biswanath Jha. The petitioner represented before the D.C.L.R., Biraul, Darbhanga, as well as before respondent no.4, Lokayukt, Government of Bihar and respondent no.6, the Circle Officer, Kiratpur, but no action has been taken for removal of the encroachment. Hence, the present writ application.

A counter affidavit has been filed on behalf of respondent nos. 3, 5 and 6, the District Magistrate, Darbhanga, the Sub-Divisional Officer, Biraul and the Circle Officer, Kiratpur, wherein it is stated in paragraph no.7 that on the petition filed for removal of encroachment, respondent no.6, the Circle Officer, Kiratpur called for a report from the Revenue Karamchari cum Circle Inspector, who submitted the report on 31.01.2014,



stipulating therein that Plot No. 4107 is a private land and Plot nos. 4106 and 4108 are recorded as 'Anabad Bihar Sarkar', whereas Plot No. 4105 is recorded as 'Anabad Sarv Sadharan'. Paragraph no.7 reads as follows:-

“That on the above counter complain a detailed report was called from concern Revenue Karamchari cum Circle Inspector (Incharge), who in turn submitted his report on 31.01.2014 and informed that Plot No. 4107 is private land, Khesra No. 4106 and 4108 is recorded in the name of Anavad Bihar Sarkar', whereas Khesra No. 4105 has been recorded in the name of 'Anavad Sarv Sadharan'.”

Paragraph no.8 of the counter affidavit stipulates that a measurement report was also called from Circle Amin, who submitted the report after measurement on 15.03.2014, which suggests that few persons including the petitioner have encroached the public land.

Though, counter affidavit does not suggest that encroachment proceeding has been initiated, but learned A.C. to A.A.G.-1 submits that Encroachment Case No. 01 of 2013-14 has been initiated, but it has not been concluded as yet.

Having heard the learned counsel for the parties, since the counter affidavit suggests that encroachment has been found on the public land and as per submission made by learned A.C. to



A.A.G.-1, encroachment proceeding has been initiated, it is expected from respondent no.6, the Circle Officer, Kiratpur to take the proceeding of Encroachment Case No. 01 of 2013-14 to its logical conclusion, if it has already not been concluded, within a period of three months from the date of receipt/production of a copy of this order, after giving due opportunity of hearing to all the affected persons, in accordance with the provisions of Bihar Public Land Encroachment Act, 1956.

Accordingly, the present writ application is disposed.

(Dinesh Kumar Singh, J)

Amrendra/-

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