

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17038 of 2014

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Abhiram Mishra, S/o Late Jhari Lal Mishra, Resident of Village – Deopura, Police
Station – Benipatti, District – Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Collector, District – Madhubani.
3. The Sub-Divisional Officer, Benipatti, District – Madhubani.
4. The Anchal Adhikari, Benipatti, District – Madhubani.
5. Kamala Kant Jha, S/o Late Sadashiv Jha
6. Pankaj Jha, S/o Late Gangadhar Jha.

Both at Serial Nos. 5 and 6 are Residents of village – Deopura, Panchayat –
Mahmadpur, P.S. – Benipatti, District – Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dharendra Kumar Jha
For the Respondent/s : Mr. GA3- VINAY KIRTI SINGH

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 08-08-2017

Heard Mr. Dharendra Kumar Jha, learned counsel for
the petitioner and Mr. Sumant Singh, learned AC to GA-2.

The present writ application has been filed for a
direction to the respondent authorities to get the encroachment



removed from Aam Rasta situated on Plot No. 599, Khata No. 49 in Mauza – Deopura, Police Station – Benipatti, District – Madhubani.

It is submitted by learned counsel for the petitioner that the public road in question is recorded in R.S. Khatiyani as ‘Gairmajarua Aam’ and the nature of land has been shown as ‘Dagar’. The R.S. Khatiyani has been brought on record as Annexure-1. On the application of the petitioner, a proceeding under Section 133 of the Cr.P.C. was initiated but ultimately, no action was taken for removal of the encroachment. The petitioner also submitted an application in the office of respondent no. 3, Sub-divisional Officer, Benipatti on 02.07.2014 under the provisions of Bihar Public Grievance Redressal Act. It is not in dispute that the respondent authorities were informed about the encroachment on the public road but no action has been taken, hence, this writ application.

Since the writ application was filed on 24.09.2014, but till date, no counter affidavit has been filed, this Court is not inclined to adjourn the matter any further. This Court is also not inclined to issue notice to respondent nos. 5 and 6 keeping in view the nature of order this Court intends to pass.

Learned AC to GA-2 submits that, at present, he is having no instruction whether any proceeding under Bihar Public Land Encroachment Act has been initiated or not, but if it has not



been initiated the same would be initiated and will be taken to its logical conclusion within a time frame.

Having heard the counsels for the parties, it appears that the respondent authorities were informed, when the petitioner submitted an application for initiation of a proceeding under Section 133 Cr.P.C. and further an application before the Sub-divisional Public Grievance Cell highlighting the encroachment made on the public land, but it appears that till date no proceeding has been initiated. Section 3 of the Bihar Public Land Encroachment Act (hereinafter referred to as the 'Act') provides the procedure for initiation of proceeding under the Act, if it appears to the Collector under the Act on the application made by any person or upon information received from any sources that any person has made or is responsible for continuation of any encroachment upon any public land. No doubt in the present case, the authorities were informed about the encroachment on a public road, but this Court finds that no action has been taken.

In the circumstances, the petitioner is permitted to file a detailed representation with regard to encroachment before respondent no. 4, Circle Officer, Benipatti within a period of three weeks from the date of receipt/production of a copy of this order. If it appears to respondent no. 4 that public road has been encroached



upon, then, he shall initiate a proceeding under the Act forthwith and take such proceeding to its logical conclusion, within a period of three months thereafter, after giving due opportunity of hearing to all the affected persons in accordance with the provisions of the Act.

Accordingly, this writ application is disposed of.

(Dinesh Kumar Singh, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.08.2017
Transmission Date	NA

