

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17762 of 2013

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Surya Bans Singh, S/o- Late Satyanarayan Singh, Resident of Village-
Bhadaula, P.S- Kudra, District- Kaimur.

.... Petitioner/s

Versus

1. The State Of Bihar, Through the Secretary, Revenue And Land Reforms,
Old Secretariat, Government of Bihar, Patna.
2. The Commissioner, Patna Commissioner, Patna.
3. The District Magistrate, Kaimur, District- Kaimur.
4. The Sub- Divisional Officer, Mohania, Kaimur.
5. The D.C.L.R., Kaimur, District- Kaimur.
6. The Circle Officer, Kudra Block, Mohania, District- Kaimur, Bhabhua.
7. Nand Lal Singh, S/o Late Muni Ram Singh, Resident of Village-
Bhadaula, P.S- Kudra, District- Kaimur (Bhabhua)
8. Hari Narayan Singh, S/o Late Muni Ram Singh, Resident of Village-
Bhadaula, P.S- Kudra, District- Kaimur (Bhabhua)
9. Abhimanyu Singh, S/o Late Muni Ram Singh, Resident of Village-
Bhadaula, P.S- Kudra, District- Kaimur (Bhabhua)
10. Chunmun Singh, S/o Late Dhani Ram Singh, Resident of Village-
Bhadaula, P.S- Kudra, District- Kaimur (Bhabhua)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Babu Nandan Prasad
For the Respondent/s : Mr. Yogendra Pd. Sinha

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 09-05-2017 Heard learned counsel for the petitioner and learned
A.C. to A.A.G-9.

This Court is not inclined to issue notice to private
respondent nos. 7 to 10, in view of the order this Court intends to
pass.

The present writ application has been filed for a
direction to the Circle Officer, Kudra, respondent no.6 to conclude
the proceeding of Encroachment Case No. 05 of 2004-05 initiated



on the application of the petitioner for removal of encroachment made by respondent nos. 7 to 10 over Plot No. 1020/438 situated in Bhadaula Village in the District of Kaimur which is recorded in the revenue record as Anabad Bihar State Government Land and was being used by public as pathway.

It is submitted by the learned counsel for the petitioner that on 09.07.2004, the petitioner submitted an application before the Circle Officer, Kudra, respondent no.6 for removal of the encroachment from the land in question. Subsequently, encroachment proceeding vide Encroachment Case No. 05 of 2004-05 was initiated and notice under Section 3 of the Bihar Public Land Encroachment Act was issued to respondent nos. 7 to 10. Consequently, Halka Karmchari on 21.07.2004 conducted spot enquiry and found that the land in question is a government land which has been encroached upon by private respondent nos. 7 to 10. Though, sons of the private respondents had given undertaking that they would leave four feet wide space for being used as 'Rasta'. The said report of Halka Karmchari has been brought on record as Annexure-2 to writ application.

The Circle Inspector also conducted enquiry and submitted his report to the Circle Officer on 24.08.2004, as contained in Annexure-4, with a finding that the public pathway



has been encroached. The Circle Amin also made measurement and found that the public pathway has been encroached.

It appears that the petitioner filed Misc. Case No. 14 of 2008-09 before the Collector, Kaimur with a prayer to expedite the proceeding of Encroachment Case No. 05 of 2004-05 when the Collector, Kaimur vide order dated 29.12.2009, as contained in Annexure-6, directed the Circle Officer, Kudra, respondent no.6, to expedite the proceeding of Encroachment Case No. 05 of 2004-05 and to get the encroachment removed but it is submitted that till date the encroachment has not been removed. Though, the petitioner submitted another application before the Collector, Kaimur on 28.04.2012, as contained in Annexure-7, conveying the non-compliance of his order dated 29.12.2009, but in spite of that, no action has been taken for removal of the encroachment.

Learned A.C to A.A.G.-9 submits that, at present, he does not have any instruction as to whether Encroachment Case No. 05 of 2004-05 has been concluded or not.

After having heard the counsels for the parties, this Court is of the view that Encroachment Case No. 05 of 2004-05 was initiated about 12 years ago and the Collector, Kaimur directed for concluding the said proceeding vide order dated 29.12.2009 passed in Misc. Case No. 14 of 2009, but the same has



not been concluded as yet which suggests the callous manner in which the statutory authorities are functioning.

In the circumstances discussed above, the District Magistrate, Kaimur is expected to prepare a report, indicating as to how many encroachment proceedings are pending in the District and try to fix a time frame for conclusion of all such proceedings including the proceeding of Encroachment Case No. 05 of 2004-05 and if need, be initiate proceeding against all such officers who are deliberately not concluding the encroachment proceedings.

It is further expected from the District Magistrate, Kaimur to ensure that the Circle Officer, Kudra should conclude the present proceeding in accordance with the provisions of the Bihar Public Land Encroachment Act, after giving due opportunity of hearing to all affected persons within a period of two months from the date of receipt/production of a copy of this order.

With the above observation/direction, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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