

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12538 of 2014

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Sudhir Kumar Singh, S/o-Ram Parichhan Singh, Resident of Village-
Bargaon, P.S- Azimabad, District- Bhojpur.

.... Petitioner

Versus

1. The State of Bihar through commissioner Patna division, Patna
2. The Collector, Bhojpur, District-Bhojpur.
3. The S.D.O., Sadar, Ara, Distt- Bhojpur.
4. The Circle Officer, Block-Agiaon, P.S- Agiaon, Distt- Bhojpur.
5. Ram Naresh Singh, S/o-Late Rajpati Singh
6. Prabhansh Singh, S/o-Late Ishwardhari Singh
7. Rabindra Singh, S/o-Ram Pukar Singh. All are resident of village-
Bargaon, P.S- Azimabad, Distt- Bhojpur.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh, Adv.

For the Respondent/s : Mr. Mahendra Prasad Verma, A.C. to S.C.-20.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 31-07-2017 Heard learned counsel for the petitioner and learned
A.C. to S.C.-20 for respondent nos. 1 to 4.

The nature of order, this Court intends to pass, does
not require issuance of notice to private respondent nos. 5 to 7.

The present writ application has been filed for a
direction to the respondent authorities to get the encroachment
removed from the land appertaining to Khata No.1340, Plot No.
5779, situated in Village Bargaon, District Bhojpur.

It is submitted by the learned counsel for the
petitioner that the land in question is recorded in the revenue
record as Anabad Sarv Sadharan, Bihar Sarkar and the same is



being used by the villagers of Bargaon for water harvesting and as a public lane, which has been constructed under 'Pradhan Mantri Rojgar Yojna', but the said land has been encroached upon by respondent nos. 5 to 7, Ram Naresh Singh, Prabhansh Singh and Rabindra Singh, respectively. On the representation submitted by the villagers, respondent no.4, the Circle Officer, Agiaon, directed the Halka Karamchari and Circle Amin to measure the land in question and submit a report. Consequently, Halka Karamchari submitted a report to the effect that the land in question is a government land and the same has been encroached upon by respondent nos. 5 to 7, but on receipt of the report, respondent no.3 issued notice on 15.07.2012, as contained in Annexure-1, directing respondent nos. 5 to 7 to remove the encroachment within a period of one week and be present in the office of Circle Officer on 22.05.2012 to inform about removal of the encroachment, failing which, the encroachment will be removed legally.

In spite of the same, when the encroachment was not removed, the Circle Officer, Agiaon, again, vide notice dated 29.05.2012, as contained in Annexure-2, directed respondent nos. 5 to 7 to remove the encroachment from the land in question within a period of one week and be present in the office of Circle



Officer on 05.06.2012 informing about such removal, failing which, the encroachment would be legally removed. It is further submitted that in spite of the notices issued, as contained in Annexures-1 and 2, the encroachment has not been removed till date, however, representation was submitted by the petitioner on 22.08.2013, as contained in Annexure-3, before the S.D.O., Sadar, Ara, respondent no.3, but no action has been taken. Hence, the present writ application.

Learned A.C. to S.C.-20 submits that from the material brought on record, it does not appear that any proceeding under the Bihar Public Land Encroachment Act (hereinafter referred to as 'the Act') has been initiated, however, if it has not been initiated, it will be initiated and will be taken to its logical conclusion within a time frame.

Considering the fact that the present writ application was filed on 23.07.2014 and till date no counter affidavit has been filed, this Court is not inclined to adjourn the matter any further.

Considering the rival submissions of the parties and from the notices, as contained in Annexures- 1 and 2, it appears that after the spot enquiry made by Halka Karamchari and measurement made by Circle Amin, the Circle Officer, Agiaon, respondent no.4, came to a conclusion that public land has been



encroached upon by respondent nos. 5 to 7, but both the notices do not reflect that any proceeding under the Act has been initiated. Section 3 of the Act provides the mechanism for initiation of encroachment proceeding, which stipulates that if it appears to the Collector under the Act from an application made by any person or upon information received from any source that any person has made or is responsible for the continuance of any encroachment upon a public land, he will initiate a proceeding by issuing notice to all the affected persons. In the present case, no doubt, the Circle Officer was initially informed by the petitioner and thereafter through the report of Halka Karamchari and Amin, he was acknowledged about the encroachment over the public land, as he twice issued notice to respondent nos. 5 to 7, but of no consequence.

In the circumstance, let the petitioner submit a representation before respondent no.4, the Circle Officer, Agiaon within a period of three weeks from the date of receipt/production of the copy of this order and respondent no.4 is expected to initiate a proceeding forthwith under the Act, if the same has already not been initiated, in view of its own finding recorded in the notices, as contained in Annexures-1 and 2. It is further expected from respondent no.4 to take such proceeding to its logical conclusion



within a period of four weeks thereafter, after giving due opportunity of hearing to all the affected persons under the provisions of the Act.

Accordingly, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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