

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12623 of 2014

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Loknath Singh, Son of Late Deodhari Singh, Resident of Village & P.O.-
Rampur, P.S.- Rajpur, Anchal-Chausa, District- Buxar (Bihar)

.... Petitioner

Versus

1. The State of Bihar through the District Magistrate, Buxar.
2. The Sub Divisional Officer, Buxar, District- Buxar (Bihar)
3. The Circle Officer, Chausa, District- Buxar (Bihar)
4. Moti Lal Sahu @ Moti Lal Sah, Son of Girdhari Sah
5. Sanoj Kumar @ Lalu, Son of Moti Lal Sahu @ Moti Lal Sah
6. Manoj Kumar, Son of Moti Lal Sahu @ Moti Lal Sah, Sl. Nos. 4 to 6 are
Resident of Village & P.O.-Rampur, P.S.- Rajpur, Anchal- Chausa, District-
Buxar (Bihar)

.... Respondent

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Appearance :

For the Petitioner/s : Mr. Vinay Kumar Mishra, Adv.
For the Respondent/s : Mr. M.K.Singh, SC-6

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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.-16 for respondent nos. 1 to 3.

The nature of order this Court intends to pass, does
not require issuance of notice to private respondent nos. 4 to 6.

The present writ application has been filed for a
direction to the respondent authorities to conclude the proceeding
of Case No. M-27M(12) of 2012 initiated under Section 133 of the
Code of Criminal Procedure pending in the Court of Sub-
Divisional Officer, Buxar. Further prayer has been made for a
direction to the respondent authorities to get the encroachment
removed over the land appertaining to Khata No. 432, Plot No.
1386, Thana No. 88 situated in Mauza Rampur, District Buxar.



Learned counsel for the petitioner is not pressing the application with regard to the prayer for conclusion of proceeding under Section 133 of the Cr. P.C., since the petitioner is having the remedy for the same, under criminal forum and moreover, the said proceeding has already been dropped.

Learned counsel for the petitioner submits that the petitioner confines his prayer only for removal of encroachment over the land in question which is a public road. The petitioner submitted several representations before the concerned authorities, but, the encroachment has not been removed from land in question, which is a public road, as recorded in the revenue record. On 02.01.2014, the petitioner submitted an application before the respondent no.1, District Magistrate, Buxar, as contained in Annexure-1, when the District Magistrate, Buxar transferred the said application of the petitioner to respondent no.3, the Circle Officer, Chausa, wherein enquiry was conducted and maliciously respondent no.3, vide report dated 24.02.2014, as contained in Annexure-3, reported that encroachment has been made by the petitioner Loknath Singh and respondent no.4, Moti Lal Sahu, as both have constructed house over Plot No. 1386. A wrong report was also submitted with regard to the fact that respondent no.4, Moti Lal Sahu is a land less person. On the contrary, he purchased



some piece of land from one Gupteshwar Rai on 03.03.1997, but either on one pretext or the other, the encroachment has not been removed as yet, hence, the present writ application.

Counter affidavit has been filed on behalf of respondent no.3, Circle Officer, Chausa to the effect that proceeding under Section 133 Cr. P.C. in Case No. M-27M (12) of 2012, has already been dropped, vide order dated 11.06.2014/19.06.2014, and the Circle Officer, Chausa was directed to remove the encroachment by resorting to the provisions of the Bihar Public Land Encroachment Act (hereinafter referred to as 'the Act') and consequently, Encroachment Case No. 06 of 2014-15 has already been initiated, wherein the petitioner has also been identified as one of the encroachers, however, a stand has been taken in paragraph no.17 of the counter affidavit that the respondent no.4, Moti Lal Sahu, is a landless person, hence he is entitled to protection, since, he has been in possession of two decimals of the land since last 50 years and hence, being entitled for settlement of such land in his favour, hence, Settlement Case No. 22 of 2011-12 has been initiated. However, the learned counsel for the State is not pressing this ground at present.

Learned A.C. to S.C.-16 submits that, at present, he does not have any instruction, whether proceeding of



Encroachment Case no.06 of 2014-15 has been concluded or not, but he further submits that if the same has not been concluded then the same will be concluded within a time frame.

Considering the rival submissions of the parties, without expressing opinion on the claim of respondent no.4 of being a landless person, it is expected from respondent no.3, the Circle Officer, Chausa to conclude the proceeding of Encroachment Case No. 6 of 2014-15, if it has already not been concluded, within a period of three months from the date of receipt/production of the copy of this order, after giving due opportunity of hearing to all the affected persons, in accordance with the provisions of the Act.

Accordingly, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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