

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19824 of 2014

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Geeta Devi

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhurendra Kumar, Advocate

For the Respondent nos. 1 to 5 : Mr. Anirban Kundu, SC 24

For respondent no. 6 : Mr. Devi Das Shrivastava, Advocate

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 01-09-2017

Heard learned counsels for the parties.

Since the writ application was filed in 2014 and till date no counter affidavit has been filed, this Court is not inclined to adjourn the matter.

The nature of order this Court intends to pass, does not require issuance of notice to respondent nos.7 to 9.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the public road and its flanks appertaining to Khata No. 3, Plot No. 85, situated in Ward No. 1, Bara Paraua under Raxaul Nagar Parishad as the same has been encroached upon by respondent nos. 7 to 9.

It is submitted by learned counsel for the petitioner that the petitioner represented on 21.7.2014 and 22.7.2014 before



the S.D.O., Raxaul, D.C.L.R., Raxaul, Circle Officer, Raxaul and Executive Officer, Nagar Parishad, Raxaul through representation, as contained in Annexure 1 series, but no action has been taken by respondent authorities. The petitioner also represented before the respondent no. 2 District Magistrate, East Champaran, as contained in Annexure 2. The petitioner again filed representation dated 28.7.2014, as contained in Annexure 3 before respondent no.3, the S.D.O., Raxaul and respondent no.5, the Circle Officer, Raxaul, who directed the Revenue Karmchari and Circle Inspector to conduct spot inspection and to submit a report, in that regard but even then no action has been taken by the respondent authorities. Hence, the present writ application.

Learned counsel for respondent nos. 1 to 5 submits that at present, he is not in a position to submit whether any encroachment proceeding has been initiated or whether the encroachment has been removed from the land in question.

Learned counsel for the respondent no. 6 also submits that at present, he is not having any instruction whether the encroachment has been removed or not.

Having heard learned counsels for the parties, this Court is dismayed to find that the authorities, who are required to look into the matter whether any public road is not being



encroached upon, they do not do as such and act in a laid back manner. In spite of representations being filed by the public at large, they chose not to take action for removal of encroachment from the public land.

For initiating a proceeding under the Bihar Public land Encroachment Act (hereinafter referred to as the 'Act'), it should appear to the Collector under the Act from an application made by any person or upon the information received from any source that any person has made or is responsible for the continuation of encroachment upon any public land.

No doubt, in the present case, not only representations have been submitted before the District Magistrate, West Champaran, S.D.O., Raxaul and D.C.L.R., Raxaul but even when the C.O., Raxaul directed for enquiring into the matter, neither any action has been taken nor any encroachment proceeding has been initiated, which reflects the casual manner in which the instrumentalities of the State are discharging their quasi judicial function.

In the circumstances, the respondent no. 5, the Circle Officer, Raxaul is expected to examine the issue and if it appears to him that the public road or its flanks have been encroached upon, then he will initiate the proceeding under the Act within two



weeks of the receipt/production of a copy of this order and will take such proceedings to its logical end within a period of three months thereafter, after giving due opportunity of hearing to all affected persons in accordance with the provisions of the Act.

This writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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