

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20409 of 2014

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Jawaheer Ram, son of Late Sri Bhagwan Ram, resident of village Khaira Bhoodhar,
P.O. Natwar, P.S. Bikramganj, Distt. Rohtas at Sasaram

.... Petitioner/s

Versus

1. The State of Bihar, through its Chief Secretary, Old Secretariat,
2. The District Padadhikari, Rohtas, Sasaram
3. The Deputy Collector, Land Reforms, Bikramganj, Rohtas
4. The Anchal Adhikari, Bikramganj, Rohtas

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jai Prakash Singh, Advocate

For the Respondent/s : Mr. Kumar Manish, SC-5

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date: 01-09-2017

Heard Mr. Jai Prakash Singh, learned counsel for
the petitioner and Mr. Kumar Manish, learned SC-5 appearing for the
State-respondents.

The present Writ application has been filed for a
direction to the respondent authorities to implement the order dated
14.02.2013 passed in Land Disputes Resolution Case No. 123/2012-
13 by Land Reforms Deputy Collector, Bikramganj, Rohtas, whereby
he has directed respondent no. 4, Circle Officer, Bikramganj to
remove the encroachment from the land appertaining to Khata No.
193, Plot Nos. 461 and 479 in pursuance to final order dated
15.03.2005 passed in Encroachment Case No. 01/2004-05.



It is submitted by learned counsel for the petitioner that the land appertaining to Khata No. 193, Plot Nos. 461 and 479 is recorded as Anabad Bihar Sarkar. The nature of the land is Aam Rasta. The said land is adjacent to the raiyati land of the petitioner. Hence, the petitioner and other villagers use the land in question as Aam Rasta. On the application of the petitioner, Encroachment Case No. 01/2004-05 was initiated by respondent no. 4, Circle Officer, Bikramganj. After getting report from Halka Karamchari and getting the land measured, the Circle Officer passed the final order in Encroachment Case No. 01/2004-05 on 15.03.2005 and directed the encroachers to remove the encroachment. Subsequently, notices were issued under Section 6(2) in Form-II of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as the 'Act'), as contained in Annexure-1, directing the encroachers, as contained in Annexure-1, to remove the encroachment, but the same was not removed. Subsequently, the petitioner filed Land Disputes Resolution Case No. 123/2012-13. The same was disposed of vide order dated 14.02.2013 by respondent no. 3, Land Reforms Deputy Collector, Bikramganj, Rohtas, directing respondent no. 4, the Circle Officer, Bikramganj, to get the encroachment removed in compliance of order dated 15.03.2005 passed in Encroachment Case No. 01/2004-05 from the land in question, but till date, the same has



not been removed. Hence, the present Writ application.

Mr. Kumar Manish, learned counsel for the State-respondents submits that, at present, he is not having any instruction whether the final order passed in encroachment proceeding has been implemented or the said order has been challenged in appeal or not, but if it has not been implemented or not been challenged in appeal or modified by any superior Court, the same will be implemented within a reasonable time frame.

Having heard the learned counsels for the parties, this Court is dismayed to find non-implementation or execution of the order, passed by a quasi judicial authority since last twelve years. There is specific provision under Section 6(2) of the Act punishing a person who fails to comply the order passed by the Collector under the Act by awarding punishment with imprisonment for a term which may extend to one year or with fine up to Rs.20,000 or with both. Section 6(2) of the Act reads as follows:-

“6(2) If any person does not comply with the orders passed by the Collector under this Section, he shall be punishable with imprisonment for a term which may extend to one year or with fine up to Rs.20,000 or with both.”

There is specific provision under Section 7 of the



Act, which prescribes the procedure for implementing the final order.

Section 7 of the Act reads as follows:-

“7. Power of the Collector to get encroachment removed and recover cost of the removal- If any person fails to comply with the orders passed by the Collector under Section 6 directing the removal of any encroachment by the date fixed, the Collector shall cause the encroachment to be removed in such manner as he deems fit and the cost of such removal shall be recovered from the such person.”

The above provision clearly stipulates that if any person fails to comply the order passed by the Collector under Section 6 of the Act directing the removal of any encroachment by the date fixed, the Collector shall cause the encroachment to be removed in such manner and the cost of such removal has been recovered from such person. There is nothing on record to suggest that the Circle Officer resorted to exercise jurisdiction under Section 6(2) or Section 7 of the Act.

In the circumstances, it is expected from respondent no. 4, Circle Officer, Bikramganj, Rohtas to implement the final order dated 15.03.2005 passed in Encroachment Case No.



01/2004-05, if the same has not been implemented till date, within a period of six weeks from the date of receipt/production of a copy of this order, provided the said order has not been challenged in appeal or has not been set aside by any superior Court.

Accordingly, this Writ application is disposed of.

(Dinesh Kumar Singh, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.09.2017
Transmission Date	NA

