

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19200 of 2013

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Vidya Bhushan Prasad, Son of Late Dharm Prasad, Resident of Village-Badram,
P.S.-Hussainganj, District-Siwan

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector-Cum-District Magistrate, Siwan
3. The D.C.L.R. Siwan
4. The Sub-Divisional Officer, Siwan
5. The Circle Officer, Hussainganj, District Siwan
6. Shyam Bihari Pandey, Son of Late Vikrama Pandey, Resident of Village-Badram, P.S.-Hussainganj, District-Siwan
7. Nilmani Mishra, Son of Late Ganesh Mishra, Resident of Village-Badram, P.S.-Hussainganj, District-Siwan

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Naresh Prasad, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date: 11-05-2017

Heard learned counsel for the petitioner.

The nature of order this Court intends to pass does not require issuance of notice to respondent nos. 6 and 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. 315, Plot No.5452, Khata No. 1044, Plot No. 5433 and Khata No. 315, Plot No. 5450 which is recorded in the revenue record as Parti Kadim Marghati and was used by public as a burial place.



It is submitted by the learned counsel for the petitioner that the land in question has been encroached by respondent nos. 6 and 7 causing inconvenience to the public at large. The petitioner submitted several representations before the Circle Officer, Hussainganj, respondent no.5 but the encroachment has not been removed from the land in question.

Section 3 of the Bihar Public Land Encroachment Act (hereinafter referred to as 'the Act') stipulates the provision for initiation of proceedings under the Act. The proceeding under the Act can be initiated if it appears to the Collector from an application made by any person or upon information received from any sources that any person has made or is responsible for the continuance of any encroachment upon any public land, the Collector may cause to be served upon such person a notice in the prescribed form requiring him to appear on a date which shall not be less than two weeks from the date of service of notice to show cause.

In the present case, it is not in dispute that the petitioner represented, but there is nothing on record to suggest that the respondent authorities have taken any action.

The present writ application was filed in the year 2013 but the counter affidavit has not been filed as yet.

In the circumstances, this Court is not inclined to



adjourn the matter any further.

Hence, the present writ application is disposed of with liberty to the petitioner to submit a fresh representation before the Circle Officer, Hussainganj, respondent no.5 within a period of three weeks from the date of receipt/production of the copy of this order, when it is expected from respondent no.5 to consider the representation of the petitioner and if he arrives at a conclusion that public land has been encroached then he shall initiate encroachment proceeding, if the same has already not been initiated, and take such proceeding to its logical conclusion after giving due opportunity of being heard, to all affected persons within a period of three months of its initiation. But if the encroachment proceeding has already been initiated then take it to its logical conclusion within two months from the date of receipt/production of the copy of this order.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	29/05/2017
Transmission Date	N/A

