

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10078 of 2014

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1. Ram Balak Singh Son of Late Govbind Singh Resident of Village - Bangarahata,
P.S. Singhiya, District - Samastipur

.... Petitioner

Versus

1. The State of Bihar
2. Collector of the District, Samastipur
3. Anchal - Adhikari, Singhiya, District - Samastipur
4. Urmila Devi Wife of Munna Rai Resident of Village - Bangarahata, P.S.
Singhiya, District - Samastipur
5. Lakhichand Rai
6. Binod Rai Both Sons of Gena Rai Resident of Village - Bangarahata, P.S.
Singhiya, District - Samastipur

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Bishwanath Prasad Singh, Adv.
For the Respondent/s : Mr. Sunil kr. Mandal, S.C.-3.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date: 11-04-2017

Heard learned Counsel for the petitioner and learned
S.C.-3 for respondent nos. 1 to 3.

The present writ application has been filed for a
direction to respondent no.3 to remove the encroachment from the
land appertaining to Plot No. 1443 being Gairmazarua Aam land used
by the villager as public road which connection the two main roads of
the village.

It is submitted by the learned Counsel for the petitioner
that the land appertaining to Old Plot No. 800 situated in Village
Bangaraharta under the Singhiya Block of Samastipur District. The



said land is recorded in the revenue records as Gairmazarua Aam Land and is being used by the villagers as public road which connects the main road of two villages. In the revisional Survey, the khata was opened in the name of State of Bihar but predecessor in interest of private respondent nos. 4 to 6 brought the Assessment Settlement Authority in collusion and got the survey entry modified in their favour. After getting wrong entry made in their favour, the predecessor in interest of respondent nos. 4 to 6 encroached upon Plot No. 1443 to the extent of three and half dhurs and thereby blocked the connecting road. The petitioner and others filed a suit under Section 108 of the B.T. Act before the Settlement Officer. The Settlement Officer vide order dated 15.12.1955 passed in Proceeding No. 01 of 1995 corrected the entry and declared the public road on Plot No. 1443 which was never challenged by anyone before any competent authority.

Subsequently, respondent nos. 4 to 6 filed an application before the Circle Officer for issuance of Parcha over Plot No. 1441 and 1444 for the area measuring 1 katha 15 dhurs whereupon Proceeding No. 42/2003-04 was initiated. The Circle Officer, without following the provisions of law, vide order dated 04.09.2003 directed for issuance of Parcha over Plot No. 1441, measuring an area of two decimals, and 1444, an area of 1 decimal, total measuring area of 3



decimals. Surprisingly the Parcha in form G was issued to them with respect to Plot No. 1443 (2 decimals) and 1444 (1 decimals) in stead of Plot No. 1441 and 1444 and consequently, the respondent nos. 4 to 6 blocked the road. Consequently on public protest, Encroachment Case No. 27 of 2003-04/01 of 2005-06 was initiated by respondent no.3 but the said proceeding could not be concluded due to issuance of Parcha in favour of respondent nos. 4 to 6. Consequently, the petitioner preferred C.W.J.C. No. 5530 of 2010 which was disposed of by a co-ordinate bench of this Court vide order dated 14.07.2010 in following terms:-

“I accordingly direct that the Collector, Samastipur should examine the records of right which would disclose the nature of the land and also examine the proceedings by which the Parcha was granted to the respondents. The respondents have appeared before this Court and as such I direct that they should appear before the Collector and place their case. The Collector should dispose of the petition within a period of four months from the date of receipt/production of a copy of this order.”

This writ petition is disposed of with the aforesaid observations and directions.”

Consequently, in pursuance to the above order, the Collector, Samastipur, respondent no.2, vide order dated 08.11.2011, as contained in Annexure-3, passed in Basgit-Parcha Case No. 87 of



2007, as contained in Annexure-3, cancelled the Parcha issued in favour of respondent nos. 4 to 6 and directed the Circle Officer, Singhiya, respondent no.3 to conclude the Encroachment Case Nos. 27 of 2003-04/01 of 2005-06 but even then the said encroachment proceeding is still pending and the public road has still been encroached, hence the present writ application.

Learned S.C.-3 submits that at present, he does not have any instruction whether the encroachment proceeding is still pending or it has been concluded but if it has not been concluded then the same will be concluded with time frame.

In the circumstances, the present writ application is disposed of with a direction to respondent no.3 to conclude the Encroachment Case Nos. 27 of 2003-04/01 of 2005-06 within a period of four months in accordance with the provisions of Bihar Public Land Encroachment Act after giving due opportunity of being heard to all affected persons.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	22/04/2017
Transmission Date	N/A

