

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14356 of 2014

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Rahamtullah Son of Late Hazi Md. Habid resident of village - Bagan P.S.
Bagangola, Distt. - Buxar

.... Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Buxar
2. The Additional Collector,
3. The Sub - Divisional Officer, Dumraon, Buxar
4. The Anchal Adhikari, Brahampur
5. Udhari Dom Son of late Sarju Dom
6. Lal Babu Dom son of Udhari Dom
7. Baul Dom son of Udhari Dom Serial No. 5 to 7 are resident of village - Bagan,
P.S. Bagangola, Distt. - Buxar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Singh, Advocate

For the Respondent/s : Mr. Rajesh Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 17-03-2017

Heard learned counsel for the petitioner and learned AC to
GP-17 for respondent nos.1 to 4.

The present writ application has been filed for a direction
to the respondent authorities to remove the encroachment made by
respondent nos. 5 to 7 from the land appertaining to Plot No.909,
Khata No.820, Thana No.292, situated in Mauja-Bagan, Anchal-
Brahampur, District-Buxar, recorded as *Aahar* (water channel) public
land Anabad Sarvasadharna in the Khatian.

It is submitted by learned counsel for the petitioner that the
land, in question, is recorded in the *Khatian* as *Anabad*



Sarvasadharan land, which gets reflected from the Khatian as contained in annexure-1. A public road runs from Jagdishpur abutting the land, in question, encroached by respondent nos.5 to 7 caused inconveniences to the public, at large.

The petitioner is aged about 70 years being a retired person from Kolkata Port Trust transmitted a petition, through registered post, to the District Magistrate, Buxar, for removal of the encroachment. Consequentially, the Additional Collector, Buxar, sent the representation of the petitioner, vide letter dated 21.11.2013, to the Circle Officer, Brahampur, as contained in Annexure-3, for conducting due enquiry in view of the representation of the petitioner. The brother of the petitioner namely, Amirudin Ahmed, also filed a petition, as contained in annexure-4, before the District Magistrate, Buxar, and Circle Officer, Brahampur, for removal of encroachment,.

It is submitted by learned AC to GP17, appearing for the respondent State, that he has filed a counter affidavit on behalf of respondent nos. 1 to 4, stating therein at paragraph no.6 that Encroachment Case No.09/2016-17 has been initiated and '*Halka Karmachari*' and the '*Amin*' were directed to submit a report regarding the area encroached and the name and address of the encroachers. Consequently, the *Amin* submitted a report in the circle office wherein factum of encroachment stated in the representation submitted by the



petitioner has been found correct and consequently the encroachers have been noticed. Paragraph No.6 of the counter affidavit reads as under :-

"That in respect to prayer in para-1 of the writ petition; in this respect it is to be submitted that an encroachment case bearing Case No.09/2016-17 has been instituted in the Brahmpur Anchal and the Halka Karmachari and the Amin were directed to submit report regarding the area encroached and the name and address of the encroachers. The report was received in the Anchal Officer and the allegation of the petitioner that there has been encroachment was found correct and true. The encroachers, who are Mahadalit by caste, have been noticed to show-cause why the encroachment be not removed."

Considering the rival submissions of the parties since the encroachment case has already been initiated, this Court is not inclined to interfere in the present proceeding, but it is expected from the respondent authorities, particularly, from respondent nos.1 and 4 to get the encroachment proceeding concluded within a period of four months and do the needful as per the provisions of the Bihar Public Land Encroachment Act, for removal of the encroachment.

Accordingly, the writ application is disposed of.

(Dinesh Kumar Singh, J)

Ashwini/-

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