

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18682 of 2014

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Sudhir Kumar, Son of Late Tuni Lal, Resident of Village - Chandrabigha,
P.O. - Mari, P.S. - Ben, Anchal - Ben, Sub-Division - Rajgir, District-
Nalanda, Pin - 803111.

.... Petitioner

Versus

1. The State of Bihar through District Magistrate, Nalanda at Biharshariff.
2. The Sub Divisional Officer, Rajgir, District - Nalanda.
3. The Block Development Officer, Ben, Nalanda.
4. The Circle Officer, Ben, District- Nalanda.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Satya Ranjan Sinha, Adv.

For the Respondent/s : Mr. Ashok Kr. Pathak, AC to GP-12

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 01-09-2017 Heard Mr. Satya Ranjan Sinha, learned counsel or

the petitioner and Mr. Ashok Kumar Pathak, learned AC to GP-12

for the respondents.

The present writ application has been filed for a
direction to the respondent authorities to get the encroachment
removed from the land appertaining to Thana No. 380, Khata No.
90, Plot No. 786, measuring an area of 3 Acre, 7 Decimals,
situated in Mauja Maritola, Chandrabigha, Block Ben, District
Nalanda.

It is submitted by learned counsel for the petitioner
that the land in question is recorded in the records of right as
'Payin' (water channel), but the same has been encroached upon



by different persons, creating hardships to the farmers. On the basis of application of the petitioner, Encroachment Case No. 02 of 2006-07 was initiated. Subsequently, respondent no.4, the Circle Officer, Ben passed final order dated 03.08.2011, as contained in Annexure-1, directing the encroachers for removal of the encroachment from the land in question. Subsequently, one Ramadhin Prasad Singh filed CWJC No. 19254 of 2012 for getting the order of respondent no.4, the Circle Officer, Ben dated 03.08.2011 passed in Encroachment Case No. 02 of 2006-07, as contained in Annexure-1, implemented, wherein, a Bench of this Court, vide order dated 12.10.2012, as contained in Annexure-3, directed respondent no.4, the Circle Officer, Ben to implement the order dated 03.08.2011, passed in Encroachment Case No. 02 of 2006-07, but in spite of that, the encroachment has not been removed from the land in question. Hence, the present Writ application.

It is submitted by learned AC to GP-12, relying upon the counter affidavit filed on behalf of the respondents, that for removal of encroachment from the land in question, Encroachment Case No. 02 of 2006-07, was initiated and final order was passed and consequently, in pursuance to the order of this Court dated 12.10.2012 passed in CWJC No. 19254 of 2012,



seventeen encroachers were removed from the land in question. Subsequently, some of the encroachers preferred writ application being CWJC No. 21711 of 2013, challenging the final order of respondent no.4, the Circle Officer, Ben dated 03.08.2011 passed in Encroachment Case No. 02 of 2006-07, wherein a Bench of this Court directed the encroachers to file an appeal within a period of five weeks and for five weeks, the operation of final order dated 03.08.2011 was stayed with liberty to the encroachers to move before the Appellate Authority for interim order. The said order has been brought on record as Annexure-B to the counter affidavit. Consequently, Land Encroachment Appeal Nos. 05 of 2013, 06 of 2013 and 03 of 2014 was preferred. However, there is no interim order of stay in the said appeals, but since Title Suit No. 66 of 2014 was also filed, hence, due to pendency of the appeal and the title suit, no further action has been taken by respondent no.4, the Circle Officer, Ben.

Having heard the learned counsels for the parties, this is not in dispute that the water channel has been encroached upon by the different persons, final order has been passed on 03.08.2011 in Encroachment Case No. 02 of 2006-07, the said order has been challenged in appeal after three years from the date of the said order was passed, though, on the direction of a Bench



of this Court and the title suit appears to have been filed after three years of passing of the final order, passed in the encroachment proceeding.

In the circumstances, it is expected from the Collector, Nalanda to dispose of the appeals arising out of final order dated 03.08.2011, passed in Encroachment Case No. 02 of 2006-07 within a period of six weeks from the date of receipt/production of the copy of this order, after giving due opportunity of hearing to all the affected persons.

With the above observation and direction, the present Writ application is disposed of.

Let the order be communicated to the District Magistrate, Nalanda.

(Dinesh Kumar Singh, J)

Amrendra/-

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