

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3211 of 2014

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Dhruv Shanker Singh, Son of Late Rama Shanker Singh, Resident of
Village - Sihouta, Post Office And Police Station - Maharajganj, District -
Siwan

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Old Secretariat, Patna
2. The Collector, Siwan
3. The Land Reforms Deputy Collector, Maharajganj, District - Siwan
4. The Circle Officer, Maharajganj Anchal, District - Siwan
5. Vidya Singh
6. Yogendra Singh,
Both Sons of Late Tuleshwar Prasad Singh
5 And 6 Resident Of Village - Sihouta, Post Office And Police Station
- Maharajganj, District - Siwan

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Singh
For the State : Mr. Ram Babu Rai, AC to SC-14

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 03-07-2017 Heard learned counsel appearing on behalf of the

petitioner and learned AC to SC-14 appearing on behalf of the

respondent State.

The present writ application has been filed for a
direction to the respondent authorities to get the encroachment
removed from the public road, pertaining to Plot Nos.1830 and
2136, Khata No.424, situated in the Village-Sihouta, Circle-
Maharajganj, District - Siwan.

It is submitted by learned counsel for the petitioner
that the land in question, measuring 11 dhurs, is recorded as road
in R.S. Khatyan and the same is being used by villagers as public



road but the same has been encroached by Respondent Nos. 5 and 6 by making construction and thereby the passage/road has been blocked, causing great hardship to the villagers.

One of the villager, namely, Kesho Narain Singh, submitted an application on 28/03/2015 to the Respondent No.4, the Circle Officer, Maharajganj, with a prayer for removal of the encroachment from the land in question. Pursuant to the same, Respondent No.4, the Circle Officer, directed the Anchal Amin to get the measurement of the land in question made and submit a report. The Anchal Amin, after measuring the land submitted a report on 14/02/2006 to the Circle Officer, to the effect that Plot Nos. 1830/2136, measuring 11 dhurs, is a public road and the same has been encroached by Respondent Nos. 5 and 6 due to construction being made over it. Moreover, they have also encroached the part of the adjacent private land of the petitioner pertaining to Plot No.1831. The report of Anchal Amin has been brought on record as Annexure-2 to the writ petition. On the basis of the report of the Anchal Amin Encroachment Case No.6 of 2007-08 was initiated wherein notices were issued to the encroachers and, thereafter, final order under Section 6(1) of the Bihar Public Land Encroachment Act (hereinafter referred to as the Act) was passed on 06/06/2008 by the Circle Officer with a



direction of issuance of notice, under section 6(2) of the Act, directing Respondent Nos. 5 and 6 to get the encroachment removed from the land in question, but till date neither the final order has been implemented nor the encroachment has been removed. Thereafter, the petitioner filed Misc. Petition No.113 of 2012-13, before the Deputy Collector Land Reforms, Maharajganj, under Land Dispute Resolution Act for removal of the encroachment from the land in question by getting the final order of Circle Officer passed in Encroachment Case No.6 of 2007-08 implemented. The said petition was dismissed on the ground that the petitioner should approach the Court of competent jurisdiction for removal of encroachment from the land in question. Subsequently, the petitioner filed a petition on 21/11/2013 before the Collector, Siwan to get the encroachment removed from the land in question, as contained in Annexure-8, but till date the encroachment has not been removed, which suggests the callous manner in which the State authorities, particularly respondent no.4, are discharging their duties.

Learned counsel for the respondent State submits that, at present he does not have any instruction as to whether the encroachment has been removed from the land in question or not.

Having heard the counsels for the parties, this Court



is dismayed that the writ application was registered on 07/02/2014, but till date no counter affidavit has been filed. Hence, this Court is not inclined to adjourn the matter.

However, this Court intends to pass such order which does not require issuance of notice to the private respondents.

It is really shocking that the final order under the Act has been passed in 2008 and the same has not been implemented till date when there is specific provision for implementation of the order under section 7 of the Act. Section 7 of the Act reads as under :-

“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 such person.”

The aforesaid provision clearly stipulates that if any person fails to comply with the order passed by the Collector under section 6 of the Act directing the removal of any encroachment by the date fixed, the Collector under the Act shall get the encroachment removed in such manner, as he deem fit and proper, the cost incurred in removal of the same shall be recovered from such person.



Sub-section (2) of section 6 of the Act stipulates that if any person fails to comply the order passed by the Collector under section 6(1) of the Act, shall be punished 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 under :-

“ 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.”

It is really shocking that the final order passed under Section 6(1) of the Act, has not been implemented in last six years and the petitioner has to invoke the writ jurisdiction of this Court for getting the order implemented passed in Encroachment Case No.6/2007-08.

In view of the discussions made above, the writ application is disposed of with a liberty to the petitioner to file appropriate application before Respondent No. 4, the Circle Officer, Maharajganj, within a period of four weeks, who is expected to implement the order dated 06/06/2008, passed in Encroachment Case No.6/2007-08, in accordance with the provision of the Act, within a period of eight weeks of submission



of application, after giving due opportunity of hearing to all the affected persons, if the said order has not been challenged in appeal/ modified or set aside by any Court.

(Dinesh Kumar Singh, J)

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