

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9516 of 2014

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Bijendra Singh, S/o Shri Gautam Singh, Resident of Village Nawada, P.S. Rivilganj, District Saran (Chapra).

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Commissioner, Saran Division.
3. The District Magistrate, Saran (Chapra).
4. The Sub-Divisional Officer, Chapra Sadar, Saran.
5. The Circle Officer, Rivilganj, Saran (Chapra).
6. Gajendra Singh S/o Shri Gautam Singh
7. Ranvijay Singh S/o Late Ramdayal Singh
8. Ranjeet Singh S/o Dhinna Singh
9. Hawaldar Singh S/o Late Kripal Singh
10. Awadh Kumar Pathak S/o Late Prem Chand Pathak All Resident of Village Nawada, P.S. Ravilganj, District Saran (Chapra).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dewendra Narayan Singh, Adv.
For the Respondent/s : Mr. Ajay Bihari Sinha, GA-8

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 21-07-2017

Heard Mr. Dewendra Narayan Singh, learned Counsel appearing on behalf of the petitioner and Mr. Ajay Bihari Sinha, learned GA-8, appearing on behalf of Respondent Nos. 1 to 5.

The present writ application has been filed for a direction to the respondent authorities to remove the encroachment from the land, pertaining to Khata No.717, Plot No.515, measuring an area 2 Katha and 19 dhurs, situated in the Village- Nawada, P.S.-Rivilganj, District- Saran.

It is submitted by learned Counsel appearing on behalf of



the petitioner that the land in question is a public land and is being used as road by the public at large. The said road is the only pathway which connects the house of the petitioner to main road, but the same has been encroached upon by Respondent Nos. 6 to 10. On application being filed by the petitioner and others, a proceeding under section 133 of the Code of Criminal Procedure was initiated wherein after notice the Executive Magistrate, Sadar, Chapra, vide order dated 31.12.1999, passed in Trial No.294 of 1999, as contained in Annexure-3, came to the conclusion that a public road has been encroached upon and, hence, directed Respondent No.5, the Circle Officer, Rivilganj, for removal of the encroachment. It is further submitted that for removal of the encroachment from the same Plot No.515, the Circle Officer, Rivilganj, initiated Encroachment Case No.1 of 1996, on the application of Respondent No.6. In the said proceeding, the Circle Officer, Rivilganj, vide order dated 09.10.1996, directed for inspection and measurement of the land in question, by the Circle Amin. Consequently, the Circle Amin, vide report dated 02.11.1996, submitted measurement report to the effect that the Plot No.515, being a public road, has been encroached upon by Respondent Nos. 6 to 10, but, neither the said proceeding has been concluded as yet nor the encroachment has been removed. The learned Counsel for the petitioner submits that he is confining his



prayer for conclusion of Encroachment Case No. 1 of 1996.

Learned Counsel appearing on behalf of the respondent – State submits that, at present, he does not have any instruction as to whether the Encroachment Case No. 1 of 1996, has been concluded or not, but, if, it has not been concluded, then, it will be concluded within a specific time frame of two months.

This Court is not inclined to issue notice, to the private respondent Nos. 6 to 10 in view of the nature of order this Court intends to pass.

Having heard learned Counsel for the parties, this Court is dismayed to find that encroachment proceeding was initiated in 1996, but, the same has not been taken to its logical conclusion in the last 21 years. It further appears from the order dated 31.12.1999, as contained in Annexure-3, that in a proceeding under section 133 of the Code of Criminal Procedure also, the Executive Magistrate came to a finding that the land in question is a public road.

In the circumstances, the writ application is disposed of with a direction to the Respondent No.5, the Circle Officer, Rivilganj, to take the Encroachment Case No.1 of 1996, to its logical conclusion, provided, the same has not been concluded, within a period of two months, after giving due opportunity of hearing to all the affected persons, in accordance with the provision of the Bihar Public Land



Encroachment Act.

However, the present order will not preclude the petitioner from taking steps for implementation of the order dated 31.12.1999, passed by the Executive Magistrate, in Tr. No.294 of 1999, in a proceeding under section 133 of the Code of Criminal Procedure.

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

