

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16382 of 2015

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1. Sanjeet Kumar Jha Son of Sri Tara Kant Jha Resident of village - Bari Tarouni,
P.S. Bahera, District - Darbhanga

.... Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Darbhanga
2. The Sub - Divisional Magistrate, Sadar, Darbhanga
3. The Circle officer, Manigachhi, Darbhanga
4. The Officer - In - Charge of Manigachhi Police Station, Darbhanga
5. Birjoo Paswan Son of Late Mahendra Paswan null
6. Bechan Paswan Son of Late Bouan Paswan
7. Arhulia Devi Wife of Late Shri Paswan
8. Mangla Devi Daughter of Late Manori Paswan
9. Kishundeo Paswan Son of Late Ramgulam Paswan
10. Bhagwat Paswan Son of Late Ramgulam Paswan
11. Chaima Paswan Son of Late Manori Paswan
12. Shivan Paswan Son of Bhikhari Paswan
13. Shambhu Paswan Son of Shaini Paswan These all are residing at Tola -
Rajwara, Mouja - Raghapur (Nehra), P.S. Manigachhi, District - Darbhanga

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev kumar jha, Adv.
For the Respondent/s : Mr. A.C. to G.P.-19.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date: 29-03-2017

Heard learned counsel for the petitioner and learned
A.C. to G.P.-19.

The present writ application has been filed with a prayer
for a direction to respondent authorities to provide adequate police
force as required for execution of the order dated 30.05.2013 and
17.08.2013 passed in Encroachment Case No. 02 of 2012-13 by Circle
Officer, Manigachhi, respondent no.3, with a further prayer for



directing the respondent authorities to take immediate legal action for removal of the encroachment from the public road running from Sakri to Dadhoura situated in the Mouja Raghopur Tola Rajwara in the District of Darbhanga appertaining to Khata No. 3638, Plot No. 9553.

It is submitted by the learned counsel for the petitioner that the public road running from Sakri to Dadhoura was encroached by respondent nos. 5 to 13 at the turning point near Ragopur Mouja in the District of Darbhanga appertaining to Khata No. 3638, Plot No. 9553 of P.W.D. by constructing the toddy shop.

Several representations were submitted before the authorities by the public but no action has been taken. Ultimately, respondent no.3, Circle Officer, Manigachhi initiated Encroachment Case No. 02 of 2012-13 and vide order dated 24.04.2012 directed the Revenue Clerk to conduct enquiry and to submit a report. Consequently, the Revenue Clerk submitted a report to the effect that on the flank of the road near Mauza Ragopur Tola Rajwara appertaining to Khata No. 3638, Plot No. 9553, nine persons have constructed their huts and houses. The land in question is recorded in the name of P.W.D. and specific area of encroachment will be figured out after the measurement by the Circle Amin. This fact gets reflected from the order dated 06.07.2012 passed by respondent no.3. Consequently, respondent no.3 directed for issuance of letter to Circle



Amin to get the measurement done and for submission of required report. The Circle Amin, after conducting measurement, submitted the report to the effect that respondent nos. 5 to 13 have encroached specific area of the land in question. The order of respondent no.3 dated 30.05.2013, as contained in Annexure-1, reflects that notices were issued to respondent nos. 5 to 13 on 13.02.2013, 01.04.2013 and 05.05.2013 directing them to remove encroachment from the land in question but neither they responded to the notice nor removed the encroachment nor filed any application. Hence, the respondent no.3 made requisition to Sub-Divisional Magistrate, respondent no.2 for deputation of Executive Magistrate and request was made to Officer-In-Charge, Manigachhi Police Station for providing adequate police force for removal of encroachment. Consequently, the Sub-Divisional Magistrate vide Memo No. 764 dated 04.07.2013 deputed Kishore Jha, Labour Officer as Executive Magistrate, for removal of the encroachment but the Executive Magistrate reported that encroachment could not be removed, since the police force was not adequately deputed, hence he requested for deputation of adequate police force. Consequently, vide order dated 17.08.2013, the respondent no.3 again requested Sub-Divisional Magistrate, respondent no.2 for providing adequate police force.

Learned A.C. to G.P.-19 submits that she does not have



any instruction at present whether the encroachment has been removed or not?

Having heard the learned counsels for the parties, it is shocking to the conscience of this Court that the petitioner had to approach this Court for implementation/execution of the order passed by the respondent authority/C.O./the Collector under Sections 6(2) and 7 of the Bihar Public Land Encroachment Act (herein after called as “The Act”). The provisions under the Act empowers the Collector to punish a person who fails to comply the order under Section 6 of the Act by awarding imprisonment for a term which may extend to one year or fine up to ₹2000/- or with both or if any person fails to comply with the orders passed by Collector under Section 6 of the Act directing the removal of the encroachment by the date fixed then get the encroachment removed in such manner as he deems fit and recover the cost of such removal from such person. Both the provisions stipulate the remedies in case of non-compliance of the order by encroachers, but here is a case, where the authorities have not provided adequate police force for implementation of the order.

Learned counsel for the petitioner confines his prayer for disposal of the representation with a direction to the respondent authorities to execute the order dated 30.05.2013 and 17.08.2013 passed by respondent no.3, Circle Officer, Manigachhi in



Encroachment Case nos. 02 of 2012-13 within a certain timeframe.

In the circumstances, respondent nos. 1 to 4 are directed to take needful action for implementation/execution of the order dated 30.05.2013 and 17.08.2013 passed in Encroachment Case No. 02 of 2012-13 within a period of six weeks from the date of receipt/production of the copy of this order.

Accordingly, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	13/04/2017
Transmission Date	N/A

