

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6542 of 2015

Ajim Ansari, Son of Late Hadish Ansari, Resident of Village:- Dharampur Iskaha, P.S. :- Bareuraj, Block- Motipur, District:- Muzaffarpur.

... .. Petitioner

Versus

1. The State of Bihar, through Principal secretary revenue and Land Reforms Department, Govt. of Bihar, Patna.
2. The District Magistrate cum collector, Muzaffarpur.
3. The Sub-Divisional Officer, West Muzaffarpur.
4. The Circle officer of Motipur Block, P.S.- Motipur, District:- Muzaffarpur.
5. The Officer in- Charge of Motipur Police station, Block-- Motipur, Muzaffarpur.
6. Anwar Ali, Son of Late Mohammad Ali, Resident of Village:- Dharampur Iskaha, P.O.:- Rampur Mona, P.S. :- Bareuraj, Block- Motipur, District:- Muzaffarpur.

... .. Respondent

Appearance :

For the Petitioner/s : Mr. Yugal Kishore, Adv.
For the Respondent/s : Mr. Rakesh Ambastha, AC to AAG-7.

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 13-09-2017 It is submitted by learned counsel for the petitioner that by inadvertance instead of modification application, supplementary affidavit has been filed through which a correction has been sought for in paragraph no. 1(i) of the writ application, wherein instead of 'Khata No. 216(ka), Plot nos. 1354 and 1837', 'Khata No. 217 and Plot nos. 838 and 1836' has been mentioned.

In the circumstances, learned counsel for the petitioner is permitted to make necessary correction in the prayer portion of the petition.

Heard Mr. Yugal Kishore, learned counsel for the petitioner and Mr. Rakesh Ambastha, learned AC to AAG-7 for



the respondent-State.

Since the present writ application was registered on 24.04.2015, but till date no counter affidavit has been filed, this Court is not inclined to adjourn the matter any further.

The nature of order this Court intends to pass, does not require issuance of notice to private respondent no.6.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the public road situated on a government land appertaining to Khata No. 216(ka), Plot nos. 1354 and 1837, situated in Village Dharampur Iskaha, P.S. Bareuraj, District Muzaffarpur.

It is submitted by learned counsel for the petitioner that the land in question is a government land over which a public road is situated, but the same is being encroached upon by private respondent no.6, who wants to construct his house. However, respondent no.6 got a Basgit Purcha on part of the government land, appertaining to Khata No. 216 (ka), Plot Nos. 1354 and 1837, measuring an area of 1 ½ decimals, for residential purposes, but since the public road is adjacent to the land for which Basgit Purcha was given to private respondent no.6, hence he is attempting to construct the house by encroaching upon public road, obstructing the right of easement of the



petitioner, as the road in question is the only road through which, the petitioner reaches to his residential house. The road is also being used by public at large. On the petition filed by Md. Majid Ansari, the brother of the petitioner on 26.05.2014 before respondent no.2, the District Magistrate, Muzaffarpur, a proceeding under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') has been initiated, vide Encroachment Case No. 27 of 2014-15, but the same has not been concluded as yet.

Though, it appears from the pleading made in paragraph no.4 of the present writ application that in the petition, he mentioned the encroachment over the land appertaining to Plot No. 838 and 1836, whereas now through supplementary affidavit, the petitioner claims encroachment over public land appertaining to Khata No. 216 (ka), Plot Nos. 1354 and 1837.

Learned AC to AAG-7 submits that at present, he is not having any instruction whether Encroachment Case No. 27 of 2014-15 has been concluded or not.

Considering the fact that the present writ petitioner was not aware about true plot number of the public land in question at the time of filing of representation before respondent no.2, the District Magistrate, Muzaffarpur or at time of filing of the



present writ application. Hence, no positive direction can be issued in the present writ application.

In the circumstances, the petitioner is expected to file appropriate application before respondent no.4, the Circle Officer, Motipur giving details of public land, over which he claims that the encroachment has been made, within a period of four weeks from the date of receipt/production of the copy of this order, when respondent no.4, the Circle Officer, Motipur will examine the revenue records and if possible, will get an enquiry conducted and if it appears to him that the public land has been encroached upon then he will initiate a proceeding under the Act forthwith, if the proceeding has not already been initiated for the same land in question, and will take the same to its logical conclusion within a period of three months from its initiation, after giving due opportunity of hearing to all the affected persons.

Accordingly, with the above observation and direction, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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