

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10218 of 2015

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Sheo Yogi Singh, Son of Late Vanshropan Singh, Resident of Village- Patarhi,
Police Station Shivsagar, District- Rohtas at Sasaram.

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Old Secretariat, Patna.
2. The District Magistrate, Rohtas, Sasaram.
3. The Deputy Collector, Land Reforms, Sasaram, Rohtas.
4. The Anchal Adhikari, Shivsagar, Rohtas.
5. The Mukhiya, Patarhi Grampanchayat, P.S- Shivsagar, District- Rohtas at Sasaram.
6. Kanhaiya Singh, son of Kawaldeo Singh, Resident of Village- Patarhi, P.S- Shiv Sagar, District- Rohtas at Sasaram.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jai Prakash Singh, Adv.
For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 21-09-2017 Heard Mr. Jai Prakash Singh, learned Counsel appearing on behalf of the petitioner and learned AC to SC-20 appearing on behalf of the respondent -State.

Since the present Writ application was filed on 13.07.2015, but till date no counter affidavit has been filed, hence, this Court is not inclined to adjourn the matter any further.

This Court is also not inclined to issue notice to the private respondent no.6, Kanhaiya Singh, in view of the nature of order this Court intends to pass.

The present Writ application has been filed for a direction to respondent authorities to get the encroachment removed from



the land appertaining to Khata No.218, Plot No.672, situated in Mauza- Patarhi, P.S.-Shivsagar, District-Rohtas. The land in question is recorded in Khatian as 'Anabad Bihar Sarkar,.

It is submitted by learned Counsel appearing on behalf of the petitioner that the land in question is gifted land and the drainage discharge of the petitioner and six other houses runs through the said land. Moreover, the land is being used as a public path by the petitioner as well as the others, but the same has been blocked by respondent no.6, who is a convicted person. Though the Panchayat Mukhiya issued a letter to the father of respondent no.6, namely Kawaldeo Singh, for removal of encroachment, from the land in question, but the encroachment has not been removed. In pursuance to the direction of respondent no.4, the Circle Officer, Shivsagar, the Halka Karmchari, submitted a report that the land in question is recorded in Khatian as 'Anabad Bihar Sarkar', while the drainage discharge of the petitioner and six others runs through the said land and the same is also being used as public path, but the same has been blocked by the father of respondent no.6. In spite of several efforts, the encroachment could not be removed from the land in question. Hence, the present Writ application.

Learned AC to SC-20, appearing on behalf of the



respondent – State submits that at present he is not having any instruction whether the encroachment proceeding has been initiated or not, or the encroachment has been removed from the land in question or not.

Having heard learned Counsels for the parties, this Court is of the view, that for initiation of encroachment proceeding, Section 3 of the Bihar Public Land Encroachment Act (hereinafter referred to as ‘the Act’) clearly envisages that if it appears to the Collector, by an application made by any person or upon information received from any source that any person has made or is responsible for the continuance of any encroachment upon any public land, he will initiate a proceeding under the provisions of the Act.

No doubt, in the present case, the land in question is a public land, which has not been disputed by learned Counsel appearing on behalf of respondent – State, which further gets confirmed from the report of the Halka Karmchari, as contained in Annexure-3, which was submitted on the direction of the Circle Officer. Hence, there was no occasion for the Circle Officer for not initiating the proceeding under the appropriate provisions of the Act. Moreover, the material available on record does not suggest that any such proceeding has been



initiated by respondent no.4, the Circle Officer, Shivsagar, till date.

In the circumstances, respondent no.4, the Circle Officer, Shivsagar, is directed to examine the record and make spot verification and if he finds that public road/land has been encroached upon, then he will initiate a proceeding with regard to the land in question under the provisions of the Act forthwith, if it has not already been initiated and it is expected from him to take such proceeding to its logical conclusion within a period of three months, after giving due opportunity of hearing to all the affected persons under the provisions of the Act.

The Writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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