

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13405 of 2015

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Sona Lal Singh, Son of late Gena Singh, Resident of Village -Tinkoni, P.O.
-Tinkoni, P.s Darpa, district East champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
 2. The District Magistrate, East Champaran, Motihari
 3. Sub Divisional Officer, Raxaul ,East Champaran.
 4. Public Information Officer - cum - Circle Officer, Chhauradano Block, East Champaran.
 5. Superintendent of Police, Motihari, East Champaran.
 6. The Officer In-charge, Darpa, Police Station ,East Champaran.
 7. Paltu Singh, son of Janak singh
 8. Jhagru Singh, son of Janak Singh
 9. Mohan Singh, son of Janak Singh,
- Respondent no. 7, 8 and 9 are Residents of Village- Tinkoni, P.S Darpa,
District East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar No.III, Adv.
For the Respondent/s : Mr. Ashok Kumar Dubey, AC to AAG-11

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 22-09-2017 Heard Mr. Sunil Kumar No.III, learned Counsel appearing
on behalf of the petitioner and Mr. Ashok Kumar Dubey,
learned AC to AAG-11, appearing on behalf of the respondent –
State.

The present Writ application was filed on 25.08.2015, but
no counter affidavit has been filed till date. 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 nos. 7 to 9, namely, Paltu Singh, Jhagru Singh and
Mohan Singh, in view of nature of order this Court intends to



pass.

The present Writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the public land appertaining to Thana No. 156, Khata No. 108, Plot No. 3620, as the same has been encroached upon by respondent nos. 7 to 9 by erecting hut and wall over the said land, which is a public road.

It is submitted by learned Counsel appearing on behalf of the petitioner that the land in question is a public road and is being used by the petitioner and the villagers at large, but the same has been encroached upon by respondent nos. 7 to 9. The petitioner transmitted a representation through registered post on 31.01.2014 to respondent nos. 3 and 4, i.e., Sub-Divisional Officer, Raxaul and Public Information Officer-cum-Circle Officer, Chhauradano Block, East Champaran, as contained in Annexure -1, but no action has been taken. Though the petitioner tried to get the information under the Right To Information Act about the action being taken on the application of the petitioner transmitted through registered post, but no action has been taken as yet.

It is submitted by learned AC to AAG-11 that the information was transmitted to respondent nos. 1 to 5 from the



office of learned AAG-8 on 25.08.2015 for filing counter affidavit, but no instruction has been received. Hence, he is not in a position, at present, to submit whether the encroachment has been removed from the land in question or not. He is also not controverting the contentions made by learned Counsel for the petitioner that the land in question is a public land.

The *sine qua non* for initiation of proceeding under the Bihar Public Land Encroachment Act (hereinafter referred to as 'the Act') is that it should appear to the Collector under the Act, either on 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.

No doubt, in the present case, vide Annexure-A, respondent no.4, the Circle Officer, Chhauradano, East Champaran, was intimated about the encroachment through a representation submitted by the petitioner by registered post, but no action has been taken.

In the circumstances, respondent no.4, the Circle Officer, Chhauradano, is expected to examine the records, make spot inspection and if it appears to him that any encroachment has been made on the public land/road in question, then he will initiate a proceeding under the Act forthwith and will take such proceeding to its logical conclusion, within a period of three



months, after giving due opportunity of hearing to all the
affected persons in accordance with the provisions of the Act.

The Writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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