

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14514 of 2015

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Chaman Mandal, Son of Late Dhano Mandal, Resident of Village –
Chhuchhunaria, Post Office Chhapa, Police Station-Jhajha, District -Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Jamui
2. The Collector, Jamui
3. The Circle Officer, Block -Jhajha, District-Jamui

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dharmendra kumar Raju
For the Respondent/s : Mr. G.P. OJHA- GP22

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 09-10-2017 Heard Mr. Dharmendra Kumar Raju, learned Counsel

appearing on behalf of the petitioner and learned AC to GP-22

appearing on behalf of the respondent – State.

Since no counter affidavit has been filed till date, in the
present Writ application which was filed in 2015, this Court is
not inclined to adjourn the matter any further.

The present Writ application has been filed to get the
encroachment removed from Gairmajarua land appertaining to
Khata No.269, Plot No.3806, administering 4 acres 82 decimals,
situated at Village-Barajor Tola (Chhuchhunaria), Police-
Station- Jhajha, District- Jamui.

It is submitted by learned Counsel appearing on behalf of
the petitioner that though the land in question is recorded in the
Khatian as Gairmajarua Khas, but the same has been



encroached upon by the villagers. The petitioner along with others submitted a representation on 14.02.2011 before respondent no.3, the Circle Officer, Block -Jhajha, District -Jamui, with a prayer for removal of encroachment and initiation of proceeding. Though encroachment proceeding has been initiated, but the encroachment has not been removed from the land in question. Subsequently, the Circle Officer directed the Anchal Amin to conduct the measurement of the land in question through the Circle Inspector, Jhajha and submit a report to that effect. Consequently, the Anchal Amin submitted a report on 19.06.2012 stating therein that the land in question is Gairmajarua Khas land and Jamabandi has been created in the name of different persons and the same has been encroached upon by several villagers.

It is submitted by learned AC to GP-22 that at present, he is having no instruction whether the encroachment proceeding has been initiated or not, and if initiated, whether the same has been concluded or not.

Having heard learned Counsels for the parties and from the pleadings made in the Writ application it does not appear that the land in question is a public land/road. Though encroachment proceeding has been initiated, but without any specification.



Moreover, the report of the Halka Karmachari reflects that six persons have encroached the land/road in question, but they have not been made party respondent.

The *sine qua non* for initiation of proceeding under Section 3 of the Bihar Public Land Encroachment Act (hereinafter referred to as 'the Act') is an application made to the Collector 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.

In the circumstances, it is expected form respondent no.3, the Circle Officer, Block-Jhajha, District - Jamui, to initiate encroachment proceeding, if the same has not already been imitated and take such proceeding to its logical conclusion, after giving due notice of hearing to all the affected persons under the provisions of the Act.

This Writ application is, accordingly, disposed of with the afore-mentioned observation and direction.

(Dinesh Kumar Singh, J)

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