

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17872 of 2015

1. Gulab Chand Singh, Son of Dhaneshi Singh
2. Pradeep Singh, Son of Ganesh Singh
Both Resident of Mohalla- Purbari Telpa (Bara Telpa), Town-
Chapra, P.O.- Chapra, P.S.- Chapra Town, District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Land
Reforms & Revenue, Govt. of Bihar, Patna.
2. The Collector, Saran, Chapra.
3. The Circle Officer, Chapra Sadar Anchal, Chapra.
4. Satyendra Singh, Son of Dina Nath Singh,
Resident of Mohalla- Bara Telpa (Purbari Telpa), Town: Chapra, P.O.
Chapra, P.S. Chapra Town, District- Saran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Nagendra Rai, Adv.
For the Respondent/s :

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 30-10-2017 Heard learned Counsels appearing on behalf of the
petitioners and respondent – State.

The nature of order this Court intends to pass, does not
require issuance of notice to private respondent no. 4, Satyendra
Singh.

Since the Writ application was registered on 07.11.2015,
this Court is not inclined to adjourn the matter any further.

The present Writ application has been filed for a direction
to respondent no.3, the Circle Officer, Chapra Sadar, to initiate a
proceeding under the Bihar Public Land Encroachment Act
(hereinafter referred to as ‘the Act’) for getting the



encroachment removed from the land appertaining to R.S. Plot No. 2857, Khata No. 358, situated in Mauza-Purbi Telpa, Town Chapra, District-Saran, which has been encroached upon by respondent no.4, Satyendra Singh.

It is submitted by learned Counsel appearing on behalf of the petitioners that the land in question has been recorded in the R.S. Khatian as Dih Bagit. Two rooms have been erected over the land in question, used as Kutchery by the ex-landlord's staff for collecting land revenue. A true copy of the R.S. Khatian has been brought on record as Annexure-1.

It is further submitted by learned Counsel for the petitioner that after vesting of Zamindari, the land with the building also got vested in the name of the State Government in view of the provisions of Section 4(a) of the Bihar Land Reforms Act, 1950 and hence the land in question became public land. Since the said land has been encroached upon by respondent no.4, hence, now it is amenable within the purview of the Act. The petitioners submitted representation before respondent no.2, the Collector, Saran, Chapra, 07.05.2015 and 16.07.2015 respectively, as contained in Annexures – 2 to 4 series, but no action has been taken with regard to the encroachment over the land in question.



Learned Counsel for the respondent - State submits that at present, he is having no instruction whether the land in question is a public land or whether any proceeding under the Act has been initiated or not.

The pre-condition for initiation of proceeding under Section 3 of the Act is an application made to the Collector by any person or upon information received from any sources that any person has made or is responsible for the continuance of any encroachment upon any public land.

No doubt, the Respondent No.2, the Collector, Saran, came to know through a petition submitted by the petitioners on 07.05.2015 and 16.07.2015 respectively, about the encroachment being made on public road/land by Respondent No.4, but there is nothing on record to suggest that any proceeding has been initiated, which *prima facie* suggests the callous manner in which the instrumentalities of the State are discharging *quasi judicial* functions.

In the circumstances, this Court permits the petitioners to file a representation before the respondent no. 3, the Circle Officer, Chapra Sadar, within a period of four weeks, giving in detail the description of land in question and the nature of encroachment.



It is expected from the respondent no. 3, the Circle Officer, Chapra Sadar to examine the records, if need be to make spot inspection, thereafter 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.

It is made clear that this Court has not given any opinion with regard to the nature of land in question. It is the total domain of respondent no.3 to decide the same issue.

The Writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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