

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15681 of 2015

Subhak Lal Mandal, S/o-Late Laxmi Mandal, Resident of Village- Jarauli,
Police Station- Andhramath, Block- Laukahi, District- Madhubani.

... .. Petitioner

Versus

1. The State of Bihar through the District Magistrate, Madhubani.
2. The Sub Divisional Officer, Phulparas under District- Madhubani.
3. L.R.D.C., Phulparas, District Madhubani.
4. The Block Development Officer, Laukahi under District- Madhubani.
5. The Circle Officer, Laukahi under District -Madhubani.
6. Sumirit Yadav
7. Amrit Yadav
8. Shiv Shankar Yadav
9. Munchun Yadav, All respondent nos. 6 to 9 are S/o- Ram Deo Yadav
10. Ram Deo Yadav, S/o- Late Yogeshwar Yadav. All Respondent Nos. 6 to 10 are Resident of Village- Jarauli, Police Station- Andhramath, Block Laukahi, District- Madhubani.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Ram Narayan Mahto, Adv.
For the Respondent/s : Mr. Sanjay Kumar, AC to SC-15.

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 12-10-2017 Heard Mr. Ram Narayan Mahto, learned counsel for the petitioner and Mr. Sanjay Kumar, learned AC to SC-15 for the respondent-State.

Since the present writ application was registered on 29.09.2015, but till date no counter affidavit has been filed, hence, 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 nos. 6 to 10.

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 Old Plot No. 723, New Plot No. 1616, as well as from the raiyati land of the petitioner appertaining to Old Plot No. 731, New Plot No. 946, situated in Village Jarauli, P.S. Andharamath, Block Laukahi, District Madhubani. Though, at present, the petitioner confines his prayer only to the extent of direction for removal of encroachment from the public land in question.

It is submitted by learned counsel for the petitioner that the public land in question is recorded in the khatian as government land and the same is being used as public pathway by the public at large, but the same has been encroached upon by private respondent nos. 6 to 10. Case No. 20 of 2012 was initiated by the Gram Kachahari, Ladania Panchayat for removal of encroachment from the public land in question, in pursuance to the public petition, but in spite of assurance given to the villagers, the encroachment has not been removed from the public land. Thereafter, a public petition was filed before respondent no.4, the Block Development Officer, Laukahi, which was forwarded to respondent no.5, the Circle Officer, Laukahi on 09.06.2014, as contained in Annexure-3. Subsequently, a public petition was filed before respondent



no.2, the Sub-Divisional Officer, Phulparas on 10.03.2015, as contained in Annexure-4, and before District Magistrate, Madhubani on 12.03.2015, as contained in Annexure-5, but no action has been taken. The petitioner also submitted representation before respondent no.3, the Land Revenue Deputy Collector, Phulparas who issued letter no. 311 along with the representation of the petitioner dated 11.03.2015 to respondent no.5, the Circle Officer, Laukaha, as contained in Annexure-6, for taking action, but till date no action has been taken. Hence, the present writ application.

Learned AC to SC-15 submits that at present, he is not having any instruction whether any proceeding under the Bihar Public Land Encroachment Act (hereinafter referred to as 'the Act') has been initiated or not or whether the encroachment from the public land in question has been initiated or not.

Considering the rival submissions of the parties, this Court is of the view that for initiating a proceeding under the Act the only pre-condition is that it should appear to the Collector from an application made 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. In the present case, no doubt, a public petition was



submitted before the respondent authorities, particularly before respondent nos. 2 and 5, the Sub-Divisional Officer, Phulparas and the Circle Officer, Laukaha, respectively, in 2013, but no action has been taken till date.

In the circumstances, it is expected from respondent no.5, the Circle Officer, Laukaha to examine the record and if it appears to him that the land in question is a public land and the same has been encroached upon, then he shall initiate a proceeding under the Act forthwith, if it has already not been initiated, and take the same to its logical conclusion within a period of three months after its initiation, after giving due opportunity of hearing to all affected persons, in accordance with the provisions of the Act.

It is clarified that this Court has not expressed any opinion with regard to the encroachment on the raiyati land of the petitioner and for the same the petitioner is at liberty to avail the appropriate remedy available under the law.

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

Amrendra/-

(Dinesh Kumar Singh, J)

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