

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22099 of 2013

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1. Janardan Tiwari, Son of Late Jetan Tiwari, Resident of Village- Rajdiha,
P.O.- Kasia, P.S.- Dumraon, District- Buxar.

.... Petitioner

Versus

1. The State of Bihar
2. The District Magistrate, Buxar
3. The Sub Divisional Officer Dumraon, District- Buxar
4. The Circle Officer, Dumraon, District- Buxar
5. The Officer Incharge Police Station Dumraon, District- Buxar
6. Parash Nath Tiwari, Son of Late Ramadhar Tiwari, Resident of Village-
Rajdiha, P.O.- Kasia, P.S.- Dumraon, District- Buxar
7. Brij Bhusan Tiwari, Son of Late Ramadhar Tiwari, Resident of Village-
Rajdiha, P.O.- Kasia, P.S.- Dumraon, District- Buxar.
8. Shyam Sundar Tiwari, Son of Late Ramadhar Tiwari, Resident of
Village- Rajdiha, P.O.- Kasia, P.S.- Dumraon, District- Buxar.
9. Krishna Gopal Tiwari, Son of Late Ramadhar Tiwari, Resident of
Village- Rajdiha, P.O.- Kasia, P.S.- Dumraon, District- Buxar,

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Anirudh Mishra

For the Respondent/s : Mr. Rajiv Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 22-06-2017 Heard learned counsel for the petitioner and learned
A.C. to G.P.-27 for respondent nos. 1 to 5.

The present writ application has been filed for
quashing the order dated 24.06.2013, as contained in Annexure-9,
passed by respondent no.3, the Sub-Divisional Officer, Dumraon,
in Case No. 25 of 2012, whereby the proceeding under Section
133 Cr. P.C. has been dropped. Further prayer has been made to
conclude the Encroachment Case No. 13 of 2012/13 and for a
direction to get the encroachment removed from the land



appertaining to C.S. Khata No. 77, C.S. Plot No. 774, admeasuring 29 decimals, situated in the Village Rajdiha, P.S.- Dumraon.

Learned counsel for the petitioner, at present, confines his prayer only to the extent for directing the respondent authorities, particularly respondent no.4, the Circle Officer, Dumraon to conclude the proceeding of Encroachment Case No. 13 of 2012-13.

It is submitted by the learned counsel for the petitioner that the land, appertaining to C.S. Khata No. 77, C.S. Plot No. 774, measuring an area of 29 decimals, situated in the Village Rajdiha, P.S.- Dumraon, has been recorded in Cadastral Survey Khatian, as Gairmazarua Aam Land, but during revisional survey, two plots bearing numbers 515 and 637 have been carved out from C.S. plots, measuring an area of 16 decimals and 6 decimals, respectively. Plot No. 515 of R.S. Khata No. 172 has been recorded as Anabad Sarva Sadharan. Plot No. 637 of R.S. Khata No. 147 has wrongly been recorded in the name of Ram Sakal Tiwary and Shiv Shankar Tiwary, the ancestors of respondent nos. 6 to 9, against which a proceeding under Section 133 Cr. P.C. was initiated but the same was dropped on the ground that Plot No. 637, an area measuring 6 decimals has been recorded in the name of ancestors of private respondents, whereas Plot No.



515 has been recorded as Anabad Sarv Sadharan for which Encroachment Case No. 13 of 2012/13 is pending.

Learned A.C. to G.P.-27 submits that though C.S. Khata No. 77, C.S. Plot No. 774 an area measuring 29 decimals, situated in the Village Rajdiha, P.S.- Dumraon was recorded in C.S. Khatian as Gairmazarua Aam Land but during the revisional survey, two plots bearing numbers 515 and 637 were carved out from Plot No. 774, of which 16 decimals of land under Plot No. 515 of R.S. Khata No. 172 have been recorded as Anabad Sarv Sadharan, whereas Plot No. 637 measuring an area of 6 decimals under Khata No. 147 is recorded in the name of Ram Sakal Tiwary and Shiv Shankar Tiwary, the ancestors of private respondent nos. 6 to 9, hence, a proceeding under Section 133 Cr. P.C. was rightly dropped since proceeding under Section 133 Cr. P.C. could not have been initiated against the raiyati land of private respondents, bearing Plot No. 637, whereas against the plot No. 515, being a public land, the Encroachment proceeding is going on. The encroachment proceeding was abated since the proceeding under Section 133 Cr. P.C. was not concluded but now the encroachment proceeding has resumed again, and hence, appropriate direction may be given for conclusion of the same, if it has already not been concluded.



After hearing the counsel for the parties, this Court is of the view that if the petitioner is aggrieved by the order of dropping of the proceeding under Section 133 Cr. P.C. or with the entry made in the revisional survey, then he may challenge the same in the appropriate proceeding.

So far as, present confined prayer of the petitioner with regard to conclusion of Encroachment Case No. 13 of 2012-13 is concerned, it is expected from the respondent no.4, the Circle Officer, Dumraon to take the same to its logical conclusion within a period of four months from the date of receipt/production of the copy of this order, if the same has not been concluded yet, after giving due opportunity of being heard to all affected persons, in accordance with the provision of Bihar Public Land Encroachment Act.

Accordingly, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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