

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14105 of 2015

=====

1. Bhola Singh son of Late Thag Singh, resident of Sewatpur, Tola- Maidania, P.S. Mairwa, District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Collector, Siwan.
3. Anchal Adhikari, Mairwa.
4. Shri Sharma Singh son of Late Jhaloo Singh resident of Sewatapur, Tola Maidani, P.S.- Mairwa, District- Siwan.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Dr. Umashankar Prasad, Sr. Adv.
Mr. Kamala Kant Tiwary, Adv.
For the State : Md. Harun Quarashi, A.C. to S.C.-01.

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date: 29-03-2017

Heard learned Senior Counsel for the petitioner and Md.
Harun Quarashi, learned A.C. to S.C.-1 appearing for respondent nos.
1 to 3.

The present writ application has been filed for a direction to the respondent authorities for removal of encroachment from the village road passing through Dihbasgit land appertaining to Khata No. 426, Survey Plot No. 1116, measuring a total area of 1 katha 17 dhurs.

It is submitted by the learned Senior Counsel for the petitioner that the land in question is situated in Maidania Tola of Sewatapur village under the Mairwa Block in the District of Siwan.



The said passage is being used as public road by the petitioner along with twenty other families of the village. Since, respondent no.4, Sharma Singh, has encroached upon the said village road, as a result of which the ingress and egress of the petitioner and other villagers have been completely obstructed.

It is further submitted that the petitioner and others submitted application on 04.10.2014 before respondent no.3, Circle Officer, Mairwa as contained in Annexure-1 with a prayer for removal of encroachment from the land in question. The Circle Officer, Mairwa, respondent no.3, in pursuance to the representation of the petitioner, directed the Halka Karamchari to conduct spot enquiry and submit a report. Consequently, Halka Karamchari vide Memo No. 26 dated 13.01.2015, as contained in Annexure-2, submitted a report to the respondent no.3 to the effect that the land appertaining to Thana no. 44, Khata No. 426, Plot No. 1116, measuring total area of 1 katha, 17 dhurs, situated in Maidania Tola of Sewatapur village under the Mairwa Block in the District of Siwan is recorded in Survey Khatian as street Dihbasgit. The report further stipulates that the land in question has been encroached by Sharma Singh, respondent no.4 by constructing hutment, fixing hand-pipe and filling up the government well. During inspection, respondent no.4 produced a photocopy of plain Patta executed by intermediary land-lord, though, Jamabandi has



not been created in anybody's name with regard to land in question, hence recommended to take action after issuing notice to the parties. Consequently, vide order dated 09.01.2015, as contained in Annexure-1, the respondent no.3 directed the Circle Amin to measure the land and submit a report but thereafter no action has been taken.

Subsequently, the petitioner on 23.07.2015 submitted a representation for the removal of encroachment before the respondent no.2, District Magistrate, Siwan, as contained in Annexure-3, even then, no action has been taken till date for removing the said encroachment.

Learned A.C. to S.C.-1 appearing on behalf of respondent nos. 1 to 3 submits that there is no specific instruction with regard to disposal of the representation of the petitioner and with regard to the status of encroachment proceeding whether the same has been concluded or not.

Learned Senior Counsel for the petitioner submits that now he confines his prayer with regard to disposal of the representation submitted for removal of encroachment before respondent nos. 2 and 3 as contained in Annexure- 1 and 3.

After considering the rival submission of the parties, this Court is dismayed to find that the petitioner has to move this Court invoking the writ jurisdiction under Article 226 of the



Constitution of India for getting their representations, for removal of the said encroachment disposed of by the District Magistrate, Siwan and Circle Officer, Mairwa, respondent nos. 2 and 3.

It is expected from respondent no.2 to prepare a list of such representations concerning removal of encroachment over public lands, which are pending within the District, and fix a time frame for disposal of such representations. It is further expected from respondent nos. 2 and 3 to dispose of the representations of the petitioner as contained in Annexures- 1 and 3, within a period of four weeks from the date of receipt/production of a copy of this order by a reasoned order, keeping in view, the report of the Halka Karamchari as contained in Annexure-2.

Accordingly, the writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	08/05/2017
Transmission Date	N/A

