

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5804 of 2015

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Ayodhya Pal son of Late Basgit Pal resident of Mohalla- Jahanabad (Kudra) ,
Police Station- Kudra, District- Kaimur (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Kaimur at Bhabua.
2. The District Magistrate , Kaimur at Bhabua.
3. The Circle Officer , Kudra, Police Station- Kudra, District- Kaimur.
4. The Officer In Charge, Kudra Police Station, District- Kaimur.
5. Dinesh Pal son of Late Ramdhani Pal .
6. Jitendra Pal son of Late Ramdhani Pal .
7. Bairagi Pal son of Late Chirkut Pal The Respondent Nos. 5 to 7 are resident of Mohalla- Jahanabad (Kudra), District- Kaimur (Bihar).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar Singh
For the Respondent/s : Mr. DEVENDRA KR SINHA

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 07-09-2017 Heard learned counsels for the parties.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the land appertaining to Khata No. 809, Plot No. 1586, Thana No. 657 situated in Mauza – Jehanabad, Circle – Pipra in the District of Kaimur.

Since that the matter is filed in 2015, 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 respondent nos.5 to 7.

The grievance of the petitioner is that on his



application being made before Respondent No. 3, The Circle Officer, Kudra, a proceeding under Bihar Public Land Encroachment Act (hereinafter referred to as the 'Act') being Encroachment Case No. 16 of 2012-13 was initiated by the respondent no. 3, Circle Officer, Kudra, who directed the Anchal Amin to measure the land in question and to submit a report to that effect. On the basis of the measurement report of the Anchal Amin, the Circle officer came to the conclusion that the land is recorded in Khatiyan as 'Sarv Sadharan' and the same has been encroached upon. The measurement was done in presence of the encroachers, after giving due notice to them and it was found that the petitioner is also one of the encroachers along with the private respondents.

Subsequently, notice dated 20.2.2013 under the Act, as contained in Annexure 2 was issued, whereby the private respondents as well as the petitioner were directed to get the encroachment removed from the land in question.

Counter affidavit filed on behalf of the respondents neither depicts that the notice under section 3 in Form I of the Act has been issued nor there is anything on record to support that any final order has been passed under section 6(1) of the Act, which reflects the casual manner in



which the counter affidavit has been filed.

In the circumstances, it is expected from the respondent no.2, the District Magistrate, Kaimur to look into the entire affairs as to how the Circle Officer being Collector under the Act, is performing the quasi judicial functions in a casual manner. The respondent no. 3, Circle Officer, Kudra is directed to conclude the proceeding of Encroachment Case No. 16 of 2012-13, if it has already not been concluded, within a period of two months from the date receipt/production of a copy of this order, after giving due opportunity of hearing to all affected persons in accordance with the provisions of the Act. If the final order has been passed and the same has not been challenged/modified by any superior Court, then the same should be implemented in terms of the provisions under section 6(2) of the Act, within a period of one month thereafter.

This writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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