

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12658 of 2016

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Aas Mohammad Ansari Son of Ajmullah Ansari Resident of Village- Deoriya, Post Office- Bagahi Bazar, Circle- Panch Deori, Police Station- Kateya, District- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Gopalganj.
2. The District Magistrate, Gopalganj.
3. The Superintendent of Police, Gopalganj.
4. The Circle Officer, Panchdeori Circle, Gopalganj.
5. Shoshila Devi wife of Nagina Noniya resident of Village- Deoriya, P.O.- Bagahi Bazar, P.S.- Kateya, District- Gopalganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Subhash Kumar, Advocate

For the Respondent/s : Mr. Sarvesh Kumar- GP24

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 22-03-2017

Heard learned counsel for the petitioner and learned AC
to GP 24 for the State.

The present writ application has been filed for a direction
to respondent no. 4 for passing necessary order for removal of
encroachment made by respondent no. 5 over Gair Majarua Land
appertaining to Khata No. 160, Khesra No. 35 measuring area 3
decimals situated in village - Deoria, Anchal - Panchdeori in the
District of Gopalganj.

It has been submitted by learned counsel for the
petitioner that Plot no. 35, Khata no. 160, Thana No. 413, measuring



area 03 decimals is a Gair Majarua Aam Land and is being used as a public road, which has been encroached by respondent no. 5, Shoshila Devi. A public petition dated 12.01.2012 was submitted before the Circle Officer, i.e., the respondent no. 4 for removal of encroachment. Thereafter, the petitioner also submitted similar application before the respondent no. 4 on 02.04.2012. The petitioner claims that his house is situated adjacent to this public road but the respondent no. 5 has encroached the public road by constructing a hut over it. The respondent no. 4 issued notice to respondent no. 5 on 07.04.2015, as contained in Annexure 6, to appear in his office on 15.04.2015/21.04.2015 and to submit the original documents of land on the basis of which she has encroached upon the land in question. The respondent no. 5 did not appear on the said dates, upon which the respondent no. 4 again issued notice dated 25.06.2015 as contained in Annexure 7 to respondent no. 5 to submit her defence and file explanation, in the absence of which encroachment would be removed with the help of police. The petitioner submits that again neither the Respondent no. 5 appeared nor any steps were taken by the Circle Officer for removal of the encroachment. Thereafter, petitioner submitted another application to the Circle Officer, Panchdeori on 15.06.2016 as contained in Annexure 8 but till date no action has been taken to remove the encroachment.



It is further submitted by learned counsel for the petitioner that till date the encroachment proceeding has also not been initiated.

Learned AC to GP 24 submits that, at present, he has no instruction as to whether any encroachment proceeding has been initiated or not.

Considering the rival contentions of the parties, respondent no. 2, the District Magistrate, Gopalganj is expected to look into the matter, take needful action against respondent no. 4 for keeping the same pending. It is also expected from respondent no. 2 to dispose of the representation of the petitioner or any pending proceeding connected with the issue of encroachment. If respondent no. 2 decides to initiate encroachment proceeding then the same may be disposed of within a period of five months, after giving due opportunity to all affected persons, under the provisions of Public Land Encroachment Act.

With the aforementioned observations/direction this application is disposed of.

(Dinesh Kumar Singh, J)

Prakash/-

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