

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20545 of 2016

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Vikas Kumar, son of Late Kanhaiya Singh, resident of Mohalla - Chamar Takia,
P.O. + P.S. - Sasaram, District - Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, Rohtas at Sasaram.
2. The Sub-Divisional Magistrate, Rohtas, Sasaram.
3. The Circle Officer, Sasaram, District - Rohtas.
4. The Officer-incharge, Sasaram(T) P.S., Distt. - Sasaram.
5. The Circle Amin, Sasaram, District - Rohtas.
6. Ghura Singh, son of Late Balrup Singh, Resident of Mohalla - Chawartakia, P.S.
- Sasaram, District - Rohtas, Sasaram.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rameshwar Singh, Advocate

For the Respondent/s : Mr. SAJID SALIM KHAN-SC25

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 15-09-2017

Heard Mr. Rameshwar Singh, learned counsel for
the petitioner and learned AC to SC-25.

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. 1229 (New) (1801
old), Plot No. 1801(New) (1229 old) situated in village – Chawar
Takia, Sasaram, District – Rohtas, which has been illegally
encroached upon by private respondent no. 6, Ghura Singh.

Though, the petitioner has brought on record the
order dated 04.12.2008 passed in Case No. 1597(M) of 1997 by Sub-



divisional Magistrate, Rohtas at Sasaram, as contained in Annexure-1, whereby respondent no.3, Circle Officer, Sasaram was directed to get the encroachment removed from the land in question. But the counsel for the petitioner submits that, at present, he is not relying on the order passed under Section 133 of the Cr.P.C., in Case No. 1597(M) of 1997 vide order dated 04.12.2008, but he prays for a direction to Respondent No. 3, Circle Officer, Sasaram to initiate an appropriate proceeding under Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as the 'Act') and to conclude the same within a reasonable time frame.

The Writ application was filed on 23.12.2016, but till date, no counter affidavit has been filed, hence, this Court is not inclined to adjourn the matter any further. Moreover, this Court is not inclined to issue notice to private respondent no. 6 in view of the nature of order, this Court intends to pass.

It is submitted by learned counsel for the petitioner that the land in question is a public land and an order in a proceeding under Section 133 Cr.P.C. in Case No. 1597(M) of 1997 has been passed, whereby respondent no. 3, Circle Officer, Sasaram was directed to get the encroachment removed.

For initiating a proceeding under Section 3 of the Act only precondition is that it should appear to the Collector



under the Act either from an application made by any person or upon information received from any sources, that any person has made or is responsible for encroachment upon any public land.

No doubt respondent no. 3, Circle Officer, Sasaram issued a notice to the encroachers as far back as on 15.04.2015, as contained in Annexure-2, but there is nothing on record to suggest that the encroachment has been removed.

In the circumstances, it is expected from respondent no. 3, Circle Officer, Sasaram to initiate a proceeding, if it appears to him that the encroachment has been made on a public land and take it to its logical conclusion within a period of three months, after giving due opportunity of hearing to all the affected persons, in accordance with the provisions of the Act.

Accordingly, this Writ application is disposed of.

(Dinesh Kumar Singh, J)

DKS/-

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	22.09.2017
Transmission Date	NA

