

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18590 of 2016

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Yamuna Kumar Son of late Ram Balak Yadav, Resident of Village-Sahbajpur, P.O. Fatehpur Nepa, Police Station-Tekari, District-Gaya

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna
3. The District Magistrate, Gaya
4. The Sub Divisional Officer, Tekari, Gaya
5. The Circle Officer, Tekari, Gaya
6. Shibu Mahto Son of Late Deo Bhajan Gope
7. Mahadev Mahto Son of Late Deo Bhajan Gope
8. Hari Mahto Son of Late Deo Bhajan Gope
9. Nitish Kumar Son of Late Jawahar Mahto, All respondent no. 6 to 9 are Resident of Village-Sahbajpur, P.O. Fatehpur Nepa, Police Station-Tekari, District-Gaya

.... Respondent/s

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Appearance :

For the Petitioner	:	Mr. Shailesh Kumar, Advocate
For the State	:	Mr. Ajay, GA-5 Mr. P.K. Sinha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 26-04-2017

The grievance of the petitioner in this writ petition filed in public interest is that Respondent Nos.6 to 9 have encroached upon a public land bearing C.S. Khata No.102, C.S. Plot No.535 area 25 decimals situated in Mauza Sahbajpur, P.S. Tekari, District Gaya.

It is stated that by making illegal constructions on such encroachment into private land, the Respondents have made



construction as a consequence thereof, the public road is being obstructed and the public is suffering adversely because of the same. Seeking a mandamus to restrain Respondent Nos.6 to 8 from making any further construction and a direction for removal of encroachment made, this writ petition has been filed.

Having heard learned counsel for the parties and on going through the record, we find that in this regard petitioner has already filed a complaint before the Circle Officer, Tekari, Gaya as is evident from the documents (Annexure 2 series) and a complaint (Annexure 4). It seems that the Circle Officer has not taken any action into the matter. Even though under the Bihar Removal of Public Land Encroachment Act, the Circle Officer is duty bound and statutorily obliged to take action and remove the encroachment after passing such enquiry as are provided in the statute. As the Circle Officer in spite of complaint has not taken any action, the petitioner has approached this Court seeking a direction in this regard.

Keeping in view the aforesaid, we direct that on the petitioner on filing a certified copy of this order along with relevant documents before the Circle Officer concerned, the Circle Officer shall take steps for removal of the encroachment after following due process of law and the procedure contemplated under the Bihar Land Encroachment Act and ensure that the encroachments are removed



within a period of six months from the date of receipt of a copy of this order.

Needless to emphasize that we have not expressed any opinion on the merits of the allegations made by the petitioner and the competent statutory authority shall take action after following due process of law which shall improve grant of opportunity of hearing to the encroachers.

With the aforesaid, the writ petition stands disposed of.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Narendra/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	02.05.2017
Transmission Date	

