

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2595 of 2017

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Dinesh Kumar, Son of Hira Lal Prasad, Resident of Village-
Mohammadpur, Police Station- Mohammadpur, District- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Land Revenue and Land Reforms, Bihar, Patna.
2. The Principal Secretary, Department of Land Revenue and Land Reforms, Bihar, Patna.
3. The District Magistrate, Gopalganj.
4. The Sub-Divisional Officer, Gopalganj.
5. The Circle Officer, Sidhwalia(Achal), Gopalganj.
6. Anaras Sah Son of Bhagwat Sah Resident of Village- Mohammadpur, Police Station- Mohammadpur, District- Gopalganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Adv.

For the Respondent/s : Mr. Rakesh Kumar Shrivastava, AC to GP-15

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 25-07-2017 Heard Mr. Sanjay Kumar, learned Counsel appearing on behalf of the petitioner and Mr. Rakesh Kumar Shrivastava, learned AC to GP-15, appearing on behalf of Respondent Nos. 1 to 5.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the public road which connects the Village- Madhopur, to be specific near the house of Mokhtar Mian to Mohammadpur Siwan via Bishunpura, pertaining to Thana No. 393, Plot No. 121, situated in Mauza – Bishunpura, District-



Gopalganj. The total area of the land is 625 feet, but the same has been encroached by the villagers of Madhopur.

It is submitted by learned Counsel appearing on behalf of the petitioner that the land in question is recorded as 'Aam Rasta' in the revenue records. The land pertaining to Khata No. 125, Survey No. 152, situated in village – Bishunpura, is recorded as 'Gairmajarua Aam Nala', over which Respondent No.6 has constructed a room, as a result, the road in question could not be constructed. On an application submitted by the brother of the petitioner, encroachment proceeding being Misc. Case No.1080 of 2014 was initiated by the Sub-Divisional Officer, Gopalganj, but after initiation of the aforementioned proceeding, the house in question has been constructed on the public road, and the encroachment has not been removed. Though, the Sub-Divisional Officer, Gopalganj, vide Letter Nos. 1303 and 39, dated 11.10.2014 and 09.01.2016, respectively, directed the Circle Officer, Sidhwalia, to submit a report with regard to ground position of the land in question, but the report was not submitted. However, during pendency of the encroachment proceeding, most of the villagers have removed the encroachment from the land in question, except Respondent No.6. Another Encroachment Case No. 4 of 2013-14 was initiated by Respondent No. 5, the Circle



Officer, Sidhwalia, wherein, vide order dated 12.09.2013, as contained in Annexure-3 series, it appears that a report was called for from the Halka Karmachari, in view of the complaint made by the villagers with regard to encroachment made by Respondent No.6 over the land in question. The order dated 17.09.2013, passed in Encroachment Case No. 04 of 2013-14, reflects that the Revenue Karmachari submitted the report to the effect that the land pertaining to Khata No. 11, Plot No. 121, is 'Gair Mazarua Aam Rasta', the road in question connects Mohammadpur to Siwan which is situated either on the public or on the raiyati land, which can be ascertained only after the report of the Anchal Amin. Consequently, a report from the Anchal Amin was called for. The said order further reflects the report of the Revenue Karmachari, which suggests that the land pertaining to Thana No. 394, Khata No. 125, Plot No. 152, is recorded in Khatian as 'Gairmazarua Aam Drainage'.

Learned Counsel for the petitioner further submits that both the encroachment proceedings have not been concluded as yet. Though, after initiation of encroachment proceeding, a notice was issued under the signature of the Respondent No.5, the Circle Officer, Sidhwalia, to Mokhtar Miyan, Sadik Miyan, Hamit Miyan Ram Awadh Thakur, Anaras Sah (Respondent No.6) and



Rajballabh Singh, whereby, the encroachers were directed to remove the encroachment by 26.11.2013 and file their defence with regard to Khata No.1, Plot Nos. 121, 152 and 153.

It is submitted by learned Counsel appearing on behalf of the respondent State that, at present, he does not have any instruction as to whether the encroachment proceeding has been concluded or not.

After hearing Counsels for the parties, this Court is of the view that the Respondent No.5, the Circle Officer, Sidhwalia, should take the above mentioned encroachment proceeding to its logical conclusion within a period of two months, if the same has not been concluded, after giving due opportunity of hearing to all the affected persons, under the provision of the Bihar Public Land Encroachment Act.

Accordingly, the writ application stands disposed of .

(Dinesh Kumar Singh, J)

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