

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7414 of 2017

Sanjeet Kumar Singh s/o Late Shiv Nath Singh resident of village - Sripal Basant, P.S. and Post - Garkha, District - Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Land Reforms, New Secretariat, Patna.
2. The Collector, Saran at Chapra.
3. The Additional Collector, Saran at Chapra.
4. The Deputy Collector, Land Reforms, Saran.
5. The Circle Officer, Garkha, Saran.
6. Senior Superintendent of Police, Saran.
7. The S.H.O., Garkha Police Station, District - Saran.
8. Shailesh Kumar Singh s/o Sri Shiv Pujan Singh resident of village - Sripal Basant, P.S. and Post - Garkha, District - Saran.
9. Byas Singh S/o Late Dayanand Singh resident of village - Sripal Basant, P.S. and Post - Garkha, District - Saran.
10. Ashok Singh s/o Late Dayanand Singh resident of village - Sripal Basant, P.S. and Post - Garkha, District - Saran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ranjan Kumar Dubey
For the Respondent/s	:	Mr. MD.KHURSHID ALAM-AAG12
		Mr. M.M. Khan, AC to AAG 12

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

3 29-11-2017 Heard learned counsels for the parties.

The present writ application has been filed for grant of
following reliefs:

(i) For issuance of writ in the nature of command directing the respondents to remove the encroachment from the Aam Rasta (Plot No. 1270) which has been encroached by respondent No.8 to 10 after initiating encroachment proceeding.

(ii) For issuance of writ in the nature of



command directing the respondents to dispose of the Measurement Case No. 66533 of 2015 forthwith which has been filed by petitioner for Measurement of his Khatiyani Land bearing plot No. 1285 and 1286 for which on the direction of Circle Officer petitioner has already deposited Rs.1370/- cost of Amin.

(iii) For issuance of writ in the nature of command directing the respondent 6 and 7 to give police protection to the petitioner in view of the tense situation between the petitioner and private respondents over the disputed land.

(iv) For any other writ/writs for which petitioner deemed entitled to.”

However, learned counsel for the petitioner confines his prayer only to the extent that the respondent authorities be directed to remove the encroachment from the public road situated on Plot No. 1270 in village Sripal Basant, Thana No. 468, Circle – Garkha, District – Saran. Further prayer has been made for a direction to the respondent authorities to conclude the proceeding of Measurement Case No. 66533 of 2015, which was initiated for measurement of Khatiyani Land of the petitioner appertaining to Plot No. 1285 and 1286 situated adjacent to the public road, for which the petitioner has deposited the measurement cost of Rs.1370/-.

It is submitted by learned counsel for the petitioner that Aam rasta is situated on Plot No. 1270 but the same has been encroached



by respondent nos. 8 to 10 and adjacent to the said public road, ancestral Khatiyani land appertaining to Plot No. 1285 and 1286 is situated over which the petitioner has constructed his residential house. Learned counsel submits that in spite of representations being submitted before the concerned authorities no proceeding under the Bihar Public Land Encroachment Act (hereinafter referred to as the 'Act') has been initiated for removal of encroachment from the public road nor the measurement of the land in question has been done.

Learned counsel for the official respondents submits that at present, he is not having any instruction whether the any encroachment proceeding has been initiated or encroachment has been removed or not or the measurement proceeding has been concluded.

Considering the rival submissions of the parties, this Court is of the view that for initiating a proceeding under the Bihar Public land Encroachment Act (hereinafter referred to as the 'Act'), it should appear to the Collector under the Act from an application made by any person or upon the information received from any source that any person has made or is responsible for the continuation of encroachment upon any public land.

No doubt, in the present case, the respondent authorities have been



made aware of the encroachment through representation but there is nothing on record to suggest that any action has been taken in pursuance to the said representations. There is also nothing on record to suggest whether the Measurement Case No. 66533 of 2015 has been concluded or not.

In the circumstances, the respondent no.5, the Circle Officer, Garkha before whom the aforementioned measurement case is pending, is expected to examine the issue and if need be, conduct spot verification and on doing so, if it appears to him that the public land has been encroached upon, then he will initiate the proceeding under the Act within two weeks of the receipt/production of a copy of this order and will take the encroachment as well as measurement proceeding to its logical end within a period of three months thereafter, after giving due opportunity of hearing to all affected persons in accordance with the provisions of the Act.

This writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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