

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14351 of 2014

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1. Nageshwar Singh Son of Late Nand Kumar Singh resident of Nawka Tola,
Mairwa, P.S. Mairwa, District - Siwan

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate and Collector, Siwan
3. Anchal Adhikari, Mairwa, District - Siwan
4. Motilal Bhagat (son of not Known to the Petitioner)
5. Firangi Lal (son of not Known to the Petitioner) Both resident Nawka Tola,
Mairwa, District - Siwan

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kamala Kant Tiwary
For the Respondent/s : Mr. A.C. to S.C.-20

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 06-04-2017

Heard learned counsel for the petitioner and learned A.C.
to S.C.-20 for respondent nos. 1 to 3.

The present writ application has been filed with a prayer
for direction to respondent authorities for removal of encroachment
from public road appertaining to Khata No. 121, Plot No. 458/175
measuring an area of 2 katha 8 dhurs situated in village Navkatola
Ward No.1, under Mairwan Block in the District of Siwan.

It is submitted by learned counsel for the petitioner that the
petitioner's residential house is situated on the land appertaining to
Khata no. 99, Plot no. 459, measuring an area of 5 katha 8 dhurs
which is adjacent to the land appertaining to Khata no. 121, Plot No.



458/175 which is being used by the petitioner as approach road between his residential house and the main road but the same has been encroached by respondent nos. 4 and 5 by making brick-construction. The petitioner submitted an application before the Circle Officer, Mairwa, respondent no.3 for measurement of the land in question and for removal of the encroachment. Consequently, respondent no.3 directed the Circle Amin for measurement of the land in question. The Circle Amin, after measurement submitted a report on 12.12.2011, as contained in Annexure-1, to the Circle Officer in Measurement Case No. 19 of 2011-12, which reflects that on khata No. 99, Plot No. 459, the residential house of the petitioner is situated whereas Plot No.458/175 is Gaimajaru Malik land which is being used by the petitioner as approach road between his house and the main road but the same has been encroached upon by several persons and thereby obstructed the outgress and ingress of the petitioner.

It is further submitted that in spite of several representations submitted before the respondent authorities, till date the encroachment has not been removed.

Learned A.C. to S.C.-20 submits that the pleadings in the writ application do not suggest that till date any encroachment proceeding has been initiated or not. Hence, appropriate directions may be given to the respondent authorities to the effect that if the land



in question is a public land then appropriate proceeding may be initiated under the Bihar Public Land Encroachment Act and the same may be concluded within a time frame.

Considering the rival submissions of the parties and the nature of writ claimed by the petitioner, let the petitioner file appropriate application with details of the encroached area before respondent nos. 2 and 3 who will examine the applications of the petitioner and dispose of the same with reasoned order within a period of four weeks and if the respondent authorities come to a conclusion that there is encroachment on the public land, then appropriate proceeding under the Bihar Public Land Encroachment Act should be initiated and taken it to its logical conclusion within a period of five months under the provisions of the Act after giving due opportunity of being heard to all affected persons.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	08/05/2017
Transmission Date	N/A

