

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7005 of 2016

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Surendra Thakur, S/o Gopal Thakur R/o Vill. Ojha Mathiya, P.S. Majhauilya,
Anchal - Majhauilya, Dist. West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Collector, West Champaran at Bettiah.
3. The Circle Officer, Anchal Majhauilya, Dist. West Champaran.
4. The Officer In charge, Police Station Majhauilya, Dist. West Champaran.
5. Ramlakhan Sah S/o Late Chhathu Sah
6. Jagdish Sah S/o Late Chhathu Sah
7. Harendra Sah S/o Late Chhathu Sah
8. Munni Lal Sah S/o Late Chhathu Sah
9. Saheb Sah S/o Late Chhathu Sah Respondents No. 5 to 9 all residents of Vill. Ojha Mathiya, P.S. Majhauilya, Anchal - Majhauilya, Dist. West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Sharma
For the Respondent/s : Mr. AC to AAG 10

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 15-09-2017

Heard learned counsels for the parties.

The nature of order this Court intends to pass, does
not require issuance of notice to private respondent nos. 5 to 9.

The present writ application has been filed for a
direction to the respondent authorities to remove the
encroachment from the public land/road appertaining to Khata
No. 140, Plot No. 347, situated in village Ojha Mathiya, Circle
and P.S. - Majhauilia in the District of West Champaran.

It is submitted by learned counsel for the
petitioner that the land in question is recorded in Khatiyan as
'Gairmajarua', which is used by the petitioner and villagers at



large, as road and now PCC road has been constructed on the land in question. The petitioner along with his brother, Manoj Thakur own the land appertaining to Khata No. 25 Plot No. 499 which is situated adjacent east to the public road in question, but since the land has been encroached upon by the private respondent nos. 5 to 9, the ingress and outgress of the petitioner and villagers at large has been substantially been obstructed.

The petitioner represented before the respondent no. 2, the Collector, West Champaran on 17.3.2016, as contained in Annexure 2 with a prayer for removal of encroachment, from the land in question but till date, no action has been taken for removal of encroachment from the said land. Hence, the present writ application.

The reports of the Anchal Amin as well as the Circle Officer suggest that encroachment has been made on the public road in question.

A.C. to A.A.G. 10 submits on the basis of a counter affidavit filed on behalf of respondent nos. 2 and 3, that a proceeding under the Bihar Public Land Encroachment Act (hereinafter referred to as the 'Act'), being Encroachment Case No. 3 of 2016-17 has been initiated and notices have been issued to the private respondents. It is further submitted that due



steps will be taken for removal of the encroachment. Statements made in paragraph no. 5 of the counter affidavit read as follows:

“That it is humbly submitted that answering respondent specially respondent no.3 has started the process and after following the due process steps will be taken to remove the encroachment from the public land.”

Considering the rival submissions of the parties, it is expected from the respondent no. 3, the Circle Officer, Majhauria to examine the issue and to take the proceeding of Encroachment Case No. 3 of 2016-17 to its logical conclusion within a period of three months, 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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