

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10242 of 2016

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Ram Lakhan Sah, son of Late Muneshwar Sah, Resident of Village- Pastan,
P.S.- Andhratharhi, District-Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, Madhubani.
2. The Collector, Madhubani.
3. The Sub Divisional Magistrate, Jhanjharpur, District- Madhubani.
4. The Circle Officer, Andhratharhi, P.S.- Andhratharhi, District- Madhubani.
5. Raghu Nandan Sah, son of Late Muneshwar Sah
6. Shiv Thakur, son of Late Mogai Thakur
7. Gangai Thakur
8. Tirpit Thakur Both sons of Late Shital Dhanpati Thakur
9. Shri Mahto, son of Late Shital Mahto
10. Rajendra Mandal, son of Late Parmeshwar Mandal
11. Jibachh Mandal, son of Late Ravi Mandal
12. Chhedi Sah, son of Late Sitaram Sah
13. Kishori Sah
14. Hallu Sah Both sons of Late Nathuni Sah null
15. Prakash Sah, son of Late Garib Lal Sah
16. Kabari Sah
17. Dhodhai Sah Both sons of Late Charu Sah
18. Swarup Mahto, son of Late Ram Prit Mahto
19. Kisun Mahto, son of Late Sundar Mahto
20. Ram Nandan Sah, son of Late Ashrafi Sah All Residents of Village- Pastan, P.S.- Andhratharhi, District- Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Baleshwar Kamat, Advocate
For the Respondent/s : Mr. Anjani Kumar, AAG-4
Mr. Sanjay Kumar, AC to AAG-4

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 14-12-2017

Heard Baleshwar Kamat, Advocate, learned
counsel for the petitioner and Mr. Sanjay Kumar, learned AC to
AAG-4.

In view of the nature of order this Court intends



to pass, this Court is not inclined to adjourn the matter any further or issue notice to private respondent nos. 5 to 20.

The present Writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the land appertaining to Khata No. 274, Plot No. 1330 situated in Village – Pastan, Circle – Andhratharhi, District – Madhubani.

It is submitted by learned counsel for the petitioner that the land in question is recorded in the Khatian as ‘Anabad Sarva Sadharan’ and was a Sairat earlier but the same has been encroached upon by the private respondents and they have constructed a residential house on the same. A public petition was submitted before the respondent no. 4, Circle Officer, Andhratharhi and respondent no. 2, Collector, Madhubani on 10.12.2015, as contained in Annexure-1 series, and consequently respondent no.4, the Circle Officer, Andhratharhi directed the Circle Inspector and Circle Amin to submit report after conducting enquiry, who submitted report to the effect that no parcha were issued with regard to the land in question and the land in question has been encroached upon by the private respondents as well as the petitioner and recommended for proper action. Subsequently, the Circle Officer, Andhratharh, directed the Anchal Amin to get



the land in question measured and Anchal Amin submitted the measurement report to the Circle Officer, as contained in Annexure-3. Thereafter, the Circle Officer, Andhratharhi issued notice to the petitioner and others and consequently the petitioner vacated the land in question but the private respondents have not vacated the land in question since no proceeding has been initiated under the provisions of Bihar Public Land Encroachment Act (hereinafter referred as the 'Act') and hence, the present Writ application.

Learned AC to AAG-4 submits that, at present, he is not having any instruction whether the land in question is public land or not or whether any proceeding has been initiated under the Act or not. However, he further submits that if it appears to the Circle Officer that the public land has been encroached upon, he shall initiate a proceeding under the Act, if the same has already not been initiated, and the same shall be concluded within a time frame.

Considering the rival submissions of the parties, for initiating a proceeding under the Act only pre-condition under Section 3 of the Act is that it should appear to the Collector from an application made by any person or upon information received from any sources, that any person has made or is



responsible for encroachment upon the public land. No doubt in the present case, a public petition was submitted before the Circle Officer and consequently the enquiry report was obtained from the Circle Inspector and the encroachment was reported, but till date there is nothing on record to suggest that any proceeding has been initiated or any action has been taken by the Circle Officer.

In the circumstances, it is expected from respondent no. 4, Circle Officer, Andhratharhi to examine the revenue records and if need be make spot verification, whereupon if it appears to him that the public land has been encroached upon, then he will initiate a proceeding forthwith, if the same has already not been initiated, and take to its logical conclusion within a period of three months, after giving due opportunity to all affected persons including respondent nos. 5 to 20 under the provisions of the Act.

Accordingly, this Writ application is disposed of.

(Dinesh Kumar Singh, J)

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