

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21022 of 2014

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1. Ram Janam Bhagat Son of Late Sukhdeo Bhagat R/o Village-Charma Tola, Bankipor, P.S.-Pakari Dayal, District-East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary Land and Revenue Department Govt. of Bihar, Patna.
3. Commissioner, Tirhut Division Muzaffarpur.
4. District Magistrate East Champaran, Motihari.
5. Sub Divisional Officer Pakari Deyal, P.S.-Pakari Dayal, District-East Champaran.
6. Deputy Collector Land Reforms East Champaran, Motihari.
7. Anchal Adhikari Pakari Dayal, District-East Champaran.
8. Rameshwar Bhagat Son of Bharos Bhagat.
9. Ramanand Bhagat Son of Bharos Bhagat. 8 and 9 R/o Village-Chaorma tola Bankipore, P.S. and Anchal Pakari Deyal, District-East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar

For the Respondent/s : Mr. Ramadhar Singh, GP 25

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 04-09-2017

Heard learned counsels for the parties.

Since the writ application was filed in 2014 and till date no counter affidavit has been filed, this Court is not inclined to adjourn the matter any further.

The nature of order this court intends to pass, does not require issuance of notice to respondent nos.8 and 9.

The present writ application has been filed for a direction to the respondent authorities to initiate an encroachment proceeding under the provisions of Bihar Public Land



Encroachment Act (hereinafter referred to as the 'Act') as the respondent nos. 8 and 9 have encroached upon the land appertaining to Plot No. 1786 Khata No. 103 recorded as Gairmajarua Aam Rasta in the Khatian, as contained in Annexure 1.

It is submitted by learned counsel for the petitioner that the petitioner submitted representations before the respondent no.4, District Magistrate, East Champaran, Motihari, respondent no. 5, Sub Divisional Officer, Pakari Dayal and respondent no. 7, the Circle Officer, Pakari Dayal but till date neither any proceeding under Act has been initiated nor the encroachment has been removed. However, a proceeding under section 133 of the Cr.P.C. was initiated vide Case No. 293 of 2012. A supplementary affidavit has been filed by the learned counsel for the petitioner stating therein that an application was made before the Public Grievance Officer, Pakri Dayal under The Public Grievance Redressal Act but the same has been dropped. Subsequently, the petitioner also filed an appeal before the Additional Collector, East Champaran.

Learned GP 25 submits that at present, he is not in a position to submit whether any encroachment proceeding under the Act has been initiated or the encroachment has been removed



from the land in question.

There is nothing on record to show that the land in question, over which the encroachment has been claimed, is a public land.

Considering the rival submissions of the parties, this Court is of the view that sine qua non for initiating a proceeding under section 3 of the Act is that 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, representation was filed before the respondent authorities but there is nothing on record to suggest that any proceeding under the Act has been initiated so far. Photo copy of the Khatian, as contained in Annexure 1, reflects that the land in question has been recorded as 'Gairmajarua Aam Rasta'.

In the circumstances, the petitioner is given liberty to file an appropriate application before the respondent no. 7, the Circle Officer, Pakari Dayal, giving details about the public land in question and the details of the encroachment made thereon within a period of three weeks from the date of receipt/production



of a copy of this order with a prayer for removal of encroachment from the land in question and it is expected from the respondent no. 7, the Circle Officer, Pakari Dayal to examine the matter and if it appears to him that encroachment has been made upon public land, then he will initiate the proceeding under the Act forthwith and will take it 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)

Anil/-

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