

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24696 of 2013

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Ram Milan Sah, S/o Late Prabhu Sah, Resident of Village- Akopur, P.S-
Cheriya Bariyarpur, District- Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar, through The Secretary, Department of Land and Revenue Government of Bihar, Patna
2. The District Magistrate, Begusarai.
3. The Deputy Collector Land and Revenue Manjhaul, Begusarai.
4. The Sub- Divisional Magistrate, Manjhaul, Begusarai.
5. The Block Development Officer, Cheriya, Bariyarpur, Begusarai.
6. The Circle Officer, Cheriya Bariyarpur, Begusarai.
7. The Sub- Divisional Police Officer, Manjhaul, Begusarai
8. The Station House Officer, Cheriya Bariyarpur Police Station, Begusarai
9. Ladu Lal Thakur, S/o Late Rajeshwar Thakur, Resident of Akopur, P.S- Cheriya, Bariyarpur, Distt- Begusarai.
10. Singheshwar Mahto, S/o Late Mohan Mahto, Resident of Akopur, P.S- Cheriya, Bariyarpur, Distt- Begusarai.
11. Ashok Mahto, S/o Late Mohan Mahto, Resident of Akopur, P.S- Cheriya, Bariyarpur, Distt- Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Singh, Adv.
For the State :

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 23-06-2017 Heard learned counsel appearing on behalf of the petitioner and learned AC to GP-4 appearing on behalf of Respondent Nos. 1 to 8.

The writ application was filed on 10/12/2013, but till date no counter affidavit has been filed and in view of the nature of order this Court intends to pass, there is no need of issuing notice to the private respondents.



The writ application has been filed for a direction to respondent authorities to get the encroachment removed over the land pertaining to Khata No.205, Plot No. 1618, 1075, 1509 and 1813 in the Mauza- Akopur, Village – Akopur, in the District of Begusarai. The land in question is registered in the revenue record as public road which connects the State Highway-55, but the same has been encroached by Respondent Nos.9 to 11.

It is submitted by learned counsel for the petitioner that respondent nos. 9 to 11 have made encroachment on the land in question being a public road, which connects the area to the State highway-55. The said encroachment has been made by respondent nos.9 to 11 and others by constructing huts and cattle sheds over Plot No.1618 and partly Plot Nos. 1075, 1509 and 1813. As a result, the free flow of traffic has substantially been impeded. The petitioner filed a representation before Respondent No.6, the Circle Officer, Cheriya Bariyarpur, Begusarai, on 08/10/2009, as contained in Annexure-2 and subsequently on 04/09/2013, as contained in Annexure-3, whereafter respondent no.6, directed the Halka Karmachari to enquire into the matter and submit a report. In compliance of the said direction of respondent no.6, the Halka Karmachari submitted a report, suggesting that the road has been encroached and recommended for removal of the



same after measurement. The report of Halka Karmchari has been brought on record, as Annexure-4. It is further submitted that till date neither any encroachment proceeding has been initiated nor the encroachment has been removed.

Learned AC to GP-4 submits that, at present, he does not have any instruction whether the encroachment proceeding has been initiated or not, or whether the encroachment has been removed or not from the land in question.

Having heard learned counsel for the petitioner, this Court is dismayed to find that the representation for removal of the encroachment from the public land was submitted as far back as on 08/10/2009 and 04/09/2013, upon which the Halka Karmachari submitted a report to the effect that the road in question has been encroached but it did not break the slumber of respondent no.6.

Sub-section (1) of Section 3 of the Bihar Public Land Encroachment Act (hereinafter referred as to the 'Act') stipulates the conditions in which encroachment proceeding can be initiated, which reads as under :-

“Initiation of Proceedings :-
If it appears 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 the continuance of any encroachment upon any public land, the Collector may cause to be served upon



such person a notice in the prescribed form requiring him to appear on a date which shall not be less than two weeks from the date of service of notice to show cause –

(a) why he should not be restrained from making such encroachment by issue of injunction; or

(b) why such encroachment should not be removed.”

The abovementioned provision clearly stipulates that the Collector under the Act can initiate encroachment proceeding on an application made by any person or upon information received from any sources that any person has made or is responsible for the continuance of any encroachment upon any public land. But, it is surprising that in spite of application being submitted in 2009 and the report of Halka Karmachari being submitted to the effect that encroachment has been made on public land no proceeding has been initiated till date.

In the circumstances, the writ application is disposed of with a direction to respondent no.6, the Circle Officer, Cheriya Bariyarpur, to consider the representation of the petitioner and the report of Halka Karmachari, as contained in Annexures-2, 3 and 4 and if it is, *prima facie*, found that the public land has been encroached and no proceeding has been initiated under the Act, then it is expected to initiate a proceeding and to take it to its



logical conclusion within a period of four months after giving due opportunity of hearing to all the affected persons, in accordance with the provisions of the Act.

(Dinesh Kumar Singh, J)

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