

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.25304 of 2013

=====

Chandeshwer Prasad Singh @ Chandeshwer Singh, Son of Shri Amawash Singh,
Resident of Village- Saidenpur, P.O.- Bihta English, P.S. & Block- Tarari, District-
Bhojpur (Ara)

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Collector, Bhojpur (Ara)
3. The Circle Officer, Block- Tarari, Bhojpur (Ara)
4. Harendra Singh, Son of Late Jamidar Singh, Resident of Village- Saidenpur,
P.O.- Bihta English, P.S. & Block- Tarari, District- Bhojpur (Ara)
5. Mahendra Singh, Son of Late Moti Singh @ Moti Lal Singh, Resident of
Village- Saidenpur, P.O.- Bihta English, P.S. & Block- Tarari, District- Bhojpur
(Ara)
6. Rajendra Singh, Son of Late Moti Singh @ Moti Lal Singh, Resident Of
Village- Saidenpur, P.O.- Bihta English, P.S. & Block- Tarari, District- Bhojpur
(Ara)
7. Surendra Singh, Son of Late Moti Singh @ Moti Lal Singh, Resident Of
Village- Saidenpur, P.O.- Bihta English, P.S. & Block- Tarari, District- Bhojpur
(Ara)
8. Ramadhar Singh, Son of Late Ramanand Singh, Resident of Village- Saidenpur,
P.O.- Bihta English, P.S. & Block- Tarari, District- Bhojpur (Ara)
9. Nand Kishwer @ Nand Kishore Singh, Son of Late Ramanand Singh, Resident
of Village- Saidenpur, P.O.- Bihta English, P.S. & Block- Tarari, District-
Bhojpur (Ara)
10. Sukhdeo Singh, Son of Late Ramji Singh, Resident of Village- Saidenpur, P.O.-
Bihta English, P.S. & Block- Tarari, District- Bhojpur (Ara)

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. RAJENDRA KUMAR

For the Respondent/s : Mr. PUSHKAR NARAIN SHAHI

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date: 17-07-2017

Heard Mr. Umakant Verma, learned counsel for the
petitioner and Mr. Pushkar Narain Shahi, learned AAG-6.

The present writ application has been filed for a
direction to the respondent authorities to take action on the



representation of the petitioner submitted before Collector, Bhojpur, respondent no. 2 and the Circle Officer, Tarari, respondent no. 3, for a direction to remove the encroachment made by Respondent Nos. 4 to 10 by constructing their house on the land in question, which is recorded in the khatian as Anabad Sarvasadharan and same is being used as public road.

This Court is not inclined to issue notice to respondent nos. 4 to 10 in view of the nature of order this Court intends to pass.

It is submitted by learned counsel for the petitioner that the land pertaining to Khata No. 194, Plot Nos. 346 to 349 and 857, is recorded in the khatian as Anabad Sarvasadharan and is being used by public as road. The continuous khatian has been brought on record as Annexure-1 and adjacent to the public road, the petitioner has constructed his house over Khata No. 175, Plot Nos. 343 and 345. The further case of the petitioner is that the public road has been blocked by private respondents. It is further submitted that the petitioner initially filed a representation for removal of encroachment from the land in question, before Circle Officer, Tarari, Respondent No. 3, on 03.04.2012, as contained in Annexure-2 and thereafter, similar representation was submitted before the Collector, Bhojpur at Ara, Respondent No. 2 on 07.07.2012, as contained in Annexure-3.



Thereafter, the petitioner submitted reminder before the Collector, Bhojpur at Ara, Respondent No. 2 on 27.04.2013, but till date, no action has been taken for removal of the encroachment.

Mr. Pushkar Narain Shahi, learned AAG-6 submits that, at present, he is having no instruction whether the land in question is a public land or whether any proceeding under the Public Land Encroachment Act has been initiated or not. \

Considering the rival submissions of the parties, it appears that a proceeding under the Bihar Public Land Encroachment Act (hereinafter called as the 'Act') can be initiated if it appears to the Collector under the Act from a complaint made by any person or upon information received from any source that any person is responsible for any encroachment upon the public land. From the materials on record, it appears that the representations were submitted as far back on 03.04.2012, 07.07.2012 and on 27.04.2013 before respondent nos. 2 and 3, but there is nothing on record to suggest that any proceeding under the Act has been initiated.

In the circumstances, the Respondent No. 3, Circle Officer, Tarari is expected to dispose of the representation of the petitioner and if the said representation is not available, then the petitioner will submit a fresh representation within a period of three weeks from the date of receipt/production of a copy of this order



whereupon it is expected from Respondent No. 3 to dispose of the same and if, he comes to a conclusion that the public road has, prima facie, been encroached upon, then a proper proceeding under the Act be initiated and the same be taken to its logical conclusion within a period of four months, after giving opportunity of hearing to all affected persons in accordance with the provisions of the Act.

Accordingly, this writ application is disposed of.

(Dinesh Kumar Singh, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.07.2017
Transmission Date	NA

