

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17910 of 2014

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Ram Naresh Singh, Son of Late Rajdeo Singh, Resident of Village-Rajpur
Jhankhi, P.S. - Phulwaria, District- Gopalganj.

.... Petitioner

Versus

1. The State of Bihar.
2. The Collector, Gopalganj.
3. The Circle Officer, Phulwaria.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Akhilesh Kumar, Adv.
For the Respondent/s : Mr. Nitya Nand Jha, A.C. to G.P.-11.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 17-08-2017 Heard Mr. Akhilesh Kumar, learned counsel for the

petitioner and Mr. Nityanand Jha, learned A.C. to G.P.-11 for the

respondents.

Since, the present writ application has been registered
on 16.10.2014 and till date, no counter affidavit has been filed,
this Court is not inclined to adjourn the matter any further.

The present writ application has been filed for a
direction to the respondent authorities to get the encroachment
removed from Gairmajarua Aam land appertaining to Khata No.
150, Plot No. 871, situated in Village Rajpur Jhankhi, District
Gopalganj.

It is submitted by learned counsel for the petitioner



that the land in question is Gairmajarua Aam land and the same is used by the villagers including the petitioner as public road, but the same has been encroached upon. The petitioner along with other villagers as well as Panchayat representatives like Panchayat Mukhiya, Sarpanch and Panchayat Samittee members of the Gram Panchayat Raj, Ganesh Dumar made representations before the Collector, Gopalganj, respondent no.2 on 10.01.2013 and 24.01.2013, as contained in Annexures- 1 and 2, for removal of the encroachment, but the same has not been removed as yet, hence, the present writ application.

Learned A.C. to G.P.-11 submits that at present, he does not have any instruction whether any proceeding under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') has been initiated or not. He is also not in a position to controvert this fact that the land in question is a public land.

Considering the rival submission of the parties, this Court is of the view that for initiation of the proceeding under Section 3 of the Act, it should appear to the Collector under the Act from an application made by any person or upon information received from any sources that any person has made or is



responsible for the continuation of encroachment upon the public land. From perusal of Annexures-1 and 2, it appears that the representations were submitted before respondent no.2, the Collector, Gopalganj as far back as January, 2013, but there is nothing on record to suggest that the said representations have been disposed of or any proceeding under the Act has been initiated.

In the circumstances, let the petitioner submit a representation before respondent no.3, the Circle Officer, Phulwaria within a period of three weeks from the date of receipt/production of the copy of this order, giving in detail of the land in question and the nature of encroachment made thereon, whereupon, if it appears to respondent no.3, the Circle Officer, Phulwaria that the encroachment has been made on a public land then he will initiate a proceeding under the Act forthwith and will take the same to its logical conclusion within a period of three months of its initiation, after giving due opportunities of hearing to all affected persons, under the provisions of the Act.

Accordingly, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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