

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18806 of 2014

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Awadhesh Mishra, Son of Chandrika Mishra, Resident of Village-Bailaha,
P.S.-Gopalpur, District-Gopalganj.

.... Petitioner

Versus

1. The State of Bihar
2. The Collector, Gopalganj.
3. The Superintendent of Police, Gopalganj.
4. The Sub-Divisional Officer, Hathua Sub-Division, District-Gopalganj.
5. The Deputy Collector, Land Reforms, Gopalganj.
6. The Block Development Officer, Kuchaikote.
7. The Circle Officer, Kuchaikote, Gopalganj.
8. The Office Minister, District Bhoodan Yagya Committee, Gopalganj.
9. Junbali Chaudhary, Son of Late Dhora Chaudhary, Resident of Village-Ahiyapur, P.S.- Gopalpur, District-Gopalganj.
10. Raghunath Chaudhary, Son of Late Munsu Chaudhary, Resident of Village-Ahiyapur, P.S.- Gopalpur, District-Gopalganj.
11. Lalmuni Kunwar, Wife of Late Budhu Chaudhary, Resident of Village-Ahiyapur, P.S. Gopalpur, District-Gopalganj.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Akhilesh Kumar, Adv.

For the Respondent/s : Mr. Jai Prabhat, AC to SC-13.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 01-09-2017 Heard Mr. Akhilesh Kumar, learned counsel for the

petitioner and Mr. Jai Prabhat, learned AC to SC-13 for the

official respondents.

Since the present writ application was registered on
05.11.2014, but till date no counter affidavit has been filed, this
Court is not inclined to adjourn the matter any further.

In view of the nature of order this Court intends to
pass, there is no requirement of issuance of notice to respondent
nos. 9 to 11.



The present writ application has been filed for a direction to the respondent authorities, particularly, respondent nos. 6 and 7, the Block Development Officer, Kuchaikote and the Circle Officer, Kuchaikote, respectively, to get the encroachment removed from the land appertaining to Plot No. 550, Khata No. 185, Tauzi No. 3296, measuring an area of 57 decimals, situated in Village Ahiyapur, Circle-Kuchaikote, District-Gopalganj.

It is submitted by learned counsel for the petitioner that the land in question was given to the petitioner as well as one Ramayan Mishra and Rakesh Mishra by the Bihar Bhudan Yagya Committee, and subsequently, rent has been fixed vide Rent Fixation Case No.35 of 2007-08, as contained in Annexure-2, and since then the petitioner is paying rent, but the said land has been encroached upon by private respondent nos. 9 to 11. The petitioner represented before respondent no.7, the Circle Officer, Kuchaikote for removal of encroachment under Section 14(a) of the Bihar Bhudan Yagya Act (hereinafter referred to as 'the Act'). Thereafter, respondent no.7, the Circle Officer, Kuchaikote called for a report from the Halka Karamchari with regard to the land in question. On the order of respondent no.7, the petitioner deposited Rs. 300/- for measurement of the land. Consequently, the measurement of the land in question was made and it was found



that out of 57 decimals of the land 0.03^{1/2} decimal of land has been encroached upon by respondent nos. 9 to 11, which gets reflected from the report of the Halka Karamchari, dated 10.10.2011, as contained in Annexure-4. Thereafter, respondent no.7, the Circle Officer, Kuchaikote issued notice to the respondent nos. 9 to 11 on 25.02.2012, as contained in Annexure-5, directing them to remove the encroachment by 05.06.2012, failing which, the encroachment was directed to be removed by police force, but the respondent nos. 9 to 11 did not remove the encroachment. Thereafter, respondent no.7, the Circle Officer, Kuchaikote called for a further report with regard to the specific encroachment made by the each encroachers and consequently, the Circle Amin, after measuring the area of the land, submitted a report on 16.06.2012 (Annexure-6), which also reflects that the respondent nos. 9 to 11 have encroached the land in question. Thereafter, vide Memo No. 1004, dated 23.06.2012, as contained in Annexure-7, respondent no.7, the Circle Officer, Kuchaikote requested respondent no.4, the Sub-Divisional Officer, Gopalganj for deployment of the police officer for removal of the encroachment from the land in question, and fixed a date for removal of encroachment as 12.07.2012. Subsequently, the petitioner deposited the cost of deployment of the police force to the extent of Rs. 6,817/- in the treasury account



of Gopalganj. Receipt of the same has been brought on record as Annexure-8. Thereafter, respondent no.4, the Sub-Divisional Officer, Gopalganj deputed respondent no.6, the Block Development Officer, Kuchaikote as Magistrate for removal of the encroachment, but either on one pretext or other, the encroachment has not been removed till date.

Learned AC to SC-13 submits that at present, he is not having any instruction whether encroachment from the land has been removed or not, but it appears from the pleading of the petitioner that efforts have been made to provide protection to the petitioner under Section 14(a) of the Act.

Considering the rival submissions of the parties, this Court is of the view that Section 14(a) of the Act provides the restoration of possession of the land to a grantee. It appears from the record that after due enquiry, it was found that the land in question has been encroached upon, however, action has been taken by respondent no.7, the Circle Officer, Kuchaikote, but till date, the petitioner has not been restored to the possession of the land in question.

In the circumstances, respondent nos. 6 and 7, the Block Development Officer, Kuchaikote and the Circle Officer, Kuchaikote, respectively, are directed to take the proceeding under



Section 14(a) of the Act to its logical conclusion within a period of six weeks from the date of receipt/production of a copy of this order, after giving due opportunity of hearing to all the affected persons.

With the above observation and direction, the present Writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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