

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20138 of 2014

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1. Manjula Devi, Wife of Sri Chedi Das, Resident of village + P.O.- Ghosai,
P.S. & Anchal- Chousa, District- Madhepura

.... Petitioner/s

Versus

1. The Home Secretary, Government of Bihar, Patna
2. The Director General of Police, Government of Bihar, Patna
3. The Inspector General of Police, Koshi Range, Saharsa
4. The Divisional Commissioner, Koshi Division, Saharsa
5. The DIG, Saharsa
6. The District Magistrate, Madhepura
7. The Superintendent of Police, Madhepura
8. The Sub-Divisional Officer, Uda Kishunganj, Madhepura
9. The Deputy Superintendent of Police, Uda Kishunganj, Madhepura
10. The Circle Officer, Chousa Circle, Chousa, Madhepura
11. The Block Development Officer, Chousa Block, Chousa, Madhepura
12. The SHO, Chousa Police Station, Chousa, Madhepura
13. Sunil Yadav, Son of Late Naresh Yadav, Resident of village + P.O.-
Ghosai, P.S. & Anchal- Chousa, District- Madhepura

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ramanuj Tiwary
For the Respondent/s : Mr. Rishi Raj Sinha, SC. 19
Mr. Akhilesh Kumar Sinha, AC to SC 19

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 01-09-2017

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 no. 13.

The present writ application has been filed for a



direction to the respondent authorities to remove the encroachment over the public road adjacent to the raiyati land of the petitioner appertaining to Plot No. 1387, situated in village Gosai, Circle – Chausa in the district of Madhepura as the same has been encroached upon by respondent no. 13, Sunil Yadav.

It is submitted by learned counsel for the petitioner that the land appertaining to Plot no. 1387, was a purchased land of the petitioner over which, he has constructed a house. Adjacent south to the house of the petitioner is the village road which is constructed under Pradhanmantri Sarak Yojna. The said road is the only way of ingress and outgress of the petitioner from his plot in question. The said village road has been encroached upon by respondent no. 13, who also demolished some portion of the house of the petitioner.

The petitioner represented before the S.D.O, Uda Kishunganj, District Magistrate, Madhepura, Commissioner, Koshi Division as well as Circle Officer, Chausa, as contained in Annexure 1 Series, but till date, no action has been taken for removal of encroachment from the land in question. Hence, the present writ application.

Since no counter affidavit has been filed, hence, it is difficult to ascertain whether the land in question is a public road



or, if it is a public road, whether any action has been taken by the respondent authorities for removal of encroachment, if any.

For initiating a proceeding under the Act, 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, the representations were filed by the petitioner before the respondent authorities including the respondent no.10, the Circle Officer, Chausa as far back as in 2014, but it does not appear that any action has been taken.

In the circumstances, the petitioner is given liberty to submit a fresh representation before the respondent no. 10, the Circle Officer, Chausa, 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. 10, the Circle Officer, Chausa to examine the issue and if it appears to him that the public road or its flanks have been encroached upon, then he will initiate a proceeding under the Bihar Public Land Encroachment Act (hereinafter referred to as the 'Act') forthwith and will take the same 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)

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