

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14309 of 2015

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Tabrej Alam, Son of Mirhasmatullah, Resident of Village- Budhwa
Champapur, P.S. Sakrapur, District- West Champaran at Bettiah

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, West Champaran, Bettiah.
3. The Sub Divisional Officer, Narkatiaganj
4. The Circle Officer, Narkatiaganj
5. Alim Gaddi, Son of Bhola Gaddi
6. Bachcha Gaddi, Son of Bhola Gaddi
7. Imamul Gaddi, Son of Bachcha Gaddi, All Residents of Village- Budhawa
Champapur, P.S.- Sikrapur, District- West Champaran at Bettia

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Narendra Kumar Singh
For the Respondent/s : Mr. Ranvijay Singh, AC to SC 23

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 06-10-2017

Heard learned counsels for the parties.

Since the writ application was filed in 2015 and
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, issuance of notice to respondent nos. 5 to 7 is not
required.

The present writ application has been filed for a
direction to the respondent authorities to get the encroachment
removed from the public road appertaining to Thana No. 274,
Plot No. 659 measuring an area of ½ decimals, situated in



Village Budhwa Champapur in the district of West Champaran.

It is submitted by learned counsel for the petitioner that the house of the petitioner is situated on Plot No. 658 and part of Plot No. 659 but the part of Plot No. 659 is Aam Rasta and due to encroachment made by the private respondent nos. 5 to 7, the ingress and egress of the petitioner has been blocked. It is further submitted that the petitioner filed representation, as contained in Annexure 4, for removal of encroachment before the respondent no.4, Circle officer, Narkatiaganj. Subsequently, respondent no.4, Circle officer, Narkatiaganj asked the Circle Amin to submit a report and Circle Amin submitted a report dated 31.5.2014, as contained in Annexure 2 stating therein that the public road situated over part of Plot No. 659 has been encroached by the private respondents. Similar report was submitted by the Halka Karmchari, as contained in Annexure 3 and consequently, when no action was taken, the petitioner submitted an application in Janta Darbar of the Chief Minister and on enquiry being directed, a notice was issued to the private respondents but the encroachment was not removed. However, it is submitted that recently when the petitioner filed an application before the Public Grievance Redressal Officer, without initiating any



proceeding, encroachment was temporarily removed, but the encroachment has resurfaced again. However, statement to this effect has not been made in the writ application.

AC to SC 23 submits that at present, he is not having any instruction whether any encroachment proceeding under the Bihar Public Land Encroachment Act (hereinafter referred to as the 'Act') has been initiated and the encroachment has been removed or not.

For initiating a proceeding under the Bihar Public land Encroachment Act (hereinafter referred to as 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, in the present case, representations were submitted by the petitioner before the respondent authorities in 2014. It is surprising that in spite of filing of the writ application in 2015, no such proceeding has been initiated which reflects the casual manner in which the instrumentalities of the State are discharging their quasi judicial function.

In the circumstances, the respondent no.4, Circle officer, Narkatiaganj is expected to act upon in pursuance to the



reports of the Anchal Amin and Halka Karmchari as contained in Annexures 2 and 3 and after verification from the revenue records, if it appears to him that the public road has been encroached upon, then he will initiate the proceeding under the Act within two weeks of the receipt/production of a copy of this order if the same has not been initiated till date and will take such proceedings to its logical end within a period of three months thereafter, after giving due opportunity of hearing to all affected persons including private respondent nos. 5 to 7 in accordance with the provisions of the Act.

This writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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