

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16646 of 2015

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1. Hamid Dewan Son of Nathuni Dewan
2. Yunus Mia son of Ibrahim Mia
3. Motor Mia son of Lorpatch Mia All are Resident of Village- Rampur ,
Police Station-Harpur, P.O. Harpur, District East champaran.

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, East Champaran.
2. The Sub-Divisional Magistrate, Raxaul, East Champaran.
3. The Circle Officer, Adapur ,District East Champaran.
4. The Superintendent of Police East Champaran.
5. The Officer-in-Charge, Harpur Police Station District East Champaran.
6. Gaffar Ansari son of Hadish Ansari
7. Arman Ansari Son of Gaffar Ansari Both are Resident of Village-
Rampur, Police Station Harpur, P.O. – Harpur, District East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dilip Kumar Tondon, Adv.

For the Respondent/s : Mr. Mukund Mohan Jha, A.C. to G.P.-27.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 17-05-2017 Heard learned counsel for the petitioner and learned
A.C. to G.P.-27 for respondent nos. 1 to 5.

The nature of order this Court intends to pass, does
not require issuance of notice to private respondent nos.6 and 7.

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 Plot No. 108, Khata
No. 80 situated in Mauza Rampur, under Harpur Police Station
within the District of East Champaran.

It is submitted by the learned counsel for the



petitioner that the land in question is a public road which has been encroached upon by respondent nos. 6 and 7. It is further submitted that the petitioners submitted an application, as contained in Annexure-1, before the Circle Officer, Adapur, respondent no.3 on 29.05.2014, who, vide letter no. 273 dated 09.08.2014, referred the matter to the S.D.M., Raxaul, respondent no.2. Consequently, respondent no.2 initiated proceeding under Section 144 Cr. P.C. vide Case No. 626M of 2014 and the said proceeding was disposed of vide order dated 14.08.2014, as contained in Annexure-3, holding that the land in question is Gairmajarua Road which has been filled up by respondent nos. 6 and 7, Gaffar Ansari and Arman Ansari obstructing the free flow of traffic. Accordingly, the Circle Officer, Adapur and Officer-in-Charge, Harpur Police Station were directed for getting the encroachment removed and to dispose of the proceeding. Consequently, the Circle Officer, Adapur, respondent no.3 issued notice to respondent nos. 6 and 7 for removal of encroachment. The petitioner submitted an application before the Circle Officer, Adapur, respondent no.3 on 29.05.2015 for removal of encroachment in pursuance to the order dated 14.08.2014 passed by learned SDM, Raxaul, respondent no.2 in Case No. 626M of 2014, but till date the encroachment has not been removed.



Learned A.C. to G.P.-27 submits that at present he does not have any instruction whether the encroachment has been removed or not.

Since the present writ application has been filed in the year 2015 and till date no counter affidavit has been filed, this Court is not inclined to adjourn the matter any further.

In the circumstance, the present writ application is disposed of with a direction to the respondent no.3, Circle Officer, Adapur that if in pursuance to order dated 14.08.2014 passed by SDM, respondent no.2 in Case No. 626M of 2014, the encroachment has not been removed and after examining the records he comes to a conclusion that the land in question is a public land which has been encroached upon, then he shall initiate an appropriate proceeding as per the provisions under the Bihar Public Land Encroachment Act and take it to its logical conclusion within a period of four months from initiation of such proceeding after giving due opportunity of hearing to all affected persons.

Learned counsel for the petitioner is permitted to make necessary correction in paragraph no.4 of the petition.

(Dinesh Kumar Singh, J)

Amrendra/-

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