

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12454 of 2014

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Mahabir Sah, Son of Late Kailu Sah, Resident of village - Banaul, P.S. -
Nanpur, District - Sitamarhi.

.... Petitioner

Versus

1. The State of Bihar through the District Magistrate, Sitamarhi.
2. The District Magistrate, Sitamarhi.
3. The Deputy Collector, Land Reforms, Pupri.
4. The Sub-Divisional Officer, Pupri, District - Sitamarhi.
5. The Circle Officer, Bokhra Anchal, District - Sitamarhi.
6. The Officer-in-Charge, Police Station - Nanpur, District - Sitamarhi.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ravindra Nath Dubey

For the Respondent/s : Mr. Madhuresh Prasad

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 31-07-2017 Heard learned counsel for the petitioner and
learned A.C. to S.C.-5 for the respondents.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the government land appertaining to Plot Nos. 8594 and 8583, situated in the Village Banaul, District Sitamarhi, as the same is being used by the petitioner and villagers, as a public road.

It is submitted by the learned counsel for the petitioner that the government land appertaining to Plot Nos. 8594 and 8583, situated in the Village Banaul, District Sitamarhi, is a 20 feet wide road which is being used by the



petitioner, having his residential house on the adjacent Plot No. 8593, but the public road has been encroached upon. It is further submitted that the petitioner represented in this regard before respondent no.3, the Deputy Collector, Land Reforms, Pupri, respondent no.4, Sub-Divisional Officer, Pupri, respondent no.5, the Circle Officer, Bokhra, and respondent no.6, the Officer-in-Charge, Nanpur Police Station, when a proceeding under Section 144 of the Cr. P.C. was initiated by the Sub-Divisional Officer, Pupri, but no action has been taken, as yet for removal of the encroachment from the land in question. Hence, the present Writ application.

Learned A.C. to S.C.-5 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 for removal of the encroachment from the land in question, however, if the same has not been initiated as yet, it will be initiated and will be taken to its logical conclusion within a fixed time frame.

Considering the fact that the present Writ application was filed on 22.07.2014, but till date no counter affidavit has been filed, this Court is not inclined to adjourn the matter any further.



Considering the rival submissions of the parties and from the material brought on record, it does not appear that any proceeding under the Act has been initiated with regard to the encroachment on the land in question. For initiation of proceeding under the Act, Section 3 provides the mechanism which stipulates that if it appears to the Collector under the Act from an application made by any person or upon information received from any source that any person has made or is responsible for any encroachment upon a public land, the proceeding will be initiated by issuing notice to all the affected persons.

In the present case, no doubt, it appears that the petitioner represented before the authorities, particularly, before respondent nos. 3 to 6, but there is nothing on record to suggest that any proceeding under the Act has been initiated.

In the said circumstances, let the petitioner submit a representation before respondent no.5, the Circle Officer, Bokhra within a period of three weeks from the date of receipt/production of the copy of this order, and if it appears to respondent no.5, the Circle Officer, Bokhra, that the public land has been encroached upon, he will initiate proceeding forthwith under the provisions of the Act, if the same has already not been



initiated. It is further expected from respondent no.5, to take such proceeding to its logical conclusion within a period of three months after giving due opportunity of hearing to all the affected persons under the provisions of the Act.

However, if the Circle Officer initiates a proceeding under the Act treating the land in question to be a public land, then he will maintain the status quo, as existing today, till the conclusion of such proceeding.

Accordingly, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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