

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20036 of 2014

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Binoda Nand Jha, Son of Pandit Chandra Kant Jha, Resident of Village-
Jodipokhad, P.S. + Anchal + Sub-Division-Patory, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary Land Reforms & Revenue Department, Government of Bihar, Patna.
2. The Divisional Commissioner, Darbhanga Division, Darbhanga.
3. The District Magistrate - cum - Collector, Samastipur.
4. The Additional Collector, Samastipur.
5. The Sub- Divisional Magistrate, Patory, Samastipur.
6. The Deputy Collector, Land Reforms Patory, Samastipur.
7. The Circle Officer, Patory, Samastipur.
8. Makhani Devi, W/o Late Dev Bhajan Mehta, Resident of Village Jodipokhad, P.S.+Anchal-Patory, District-Samastipur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhay Kumar Jha, Adv.

For the State :

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 04-09-2017

Heard.

The present Writ application has been filed for commanding respondent no.7, the Circle Officer, Patory, Samastipur, to initiate encroachment proceeding under the provisions of Bihar Public Land Encroachment Act (hereinafter called as 'the Act) for removal of the obstruction, (huts) made



over the public road, appertaining to Plot No.155, situated in Mauza-Jodipokhar, District- Samastipur. Further prayer has been made for taking action against respondent no.7, the Circle Officer, Patory, Samastipur, who failed to initiate proceeding under the Act for removal of encroachment.

The present Writ application was filed in 2014, but till date no counter affidavit has been filed, hence, this Court is not inclined to adjourn the matter any further.

It is submitted by learned Counsel appearing on behalf of the petitioner that the public road is situated over Plot No.155, whereas the petitioner is constructing his house on old Plot No. 154, new Plot No. 128, Khata No.27 and the petitioner used the land, falling between Plot Nos. 155 and 154, for reaching the main road. The said area was filled up by soil for carrying the construction material. It is further submitted that the petitioner submitted representation dated 13.06.2013 before respondent no.7, the Circle Officer, Patory, Samastipur, as contained in Annexure-1, as well as to respondent No.3, the District Magistrate, Samastipur, on 30.06.2014, as contained in Annexure-6 series, but till date neither any encroachment proceeding has been initiated, nor the representation of petitioner has been disposed of.

From perusal of the representation, it appears that the



passage, in between Plot Nos. 154-155, has not been explained whether it is the part of the public road situated over Plot No.155 or it is *raiyati* land of the petitioner. However, in view of the nature of prayer made in the Writ application for initiation of proceeding under the Act, this Court is not inclined to examine the nature of land in question, in detail, at present.

For initiation of proceeding, Section 3 of the Act envisages that if it appears to the Collector, by application made by any person or upon information received from any source that any person has made or is responsible for the continuance of any encroachment upon any public land, he will initiate a proceeding under the provisions of the Act.

In the present case, the petitioner submitted representation not only to the Circle Officer on 13.06.2013, but also to the District Magistrate on 30.06.2014, as contained in Annexures-1 and 6 series, but till date there is nothing on record to suggest that any proceeding has been initiated.

In the circumstances, respondent no.7, the Circle Officer, Patna is directed to examine the record and make spot verification and if he finds that public road/land has been encroached upon then he will initiate a proceeding with regard to the land in question under the Act, if it has not already been



initiated and it is expected from him to take such proceeding to its logical conclusion within a period of three months by giving due opportunity of hearing to all affected persons under the Act.

Accordingly, the Writ application is disposed of.

(Dinesh Kumar Singh, J)

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