

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3264 of 2014

=====

Bhagwat Paswan, S/O Late Chandra Paswan, R/O Village- Anandpur, P.S.
Rajoun, District- Banka

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Land Reforms Department, Govt. of Bihar, Patna
2. The District Magistrate, Banka, District- Banka
3. The Sub Divisional Officer, Banka, District- Banka
4. The Block Development Officer, Rajoun, Banka, District- Banka
5. The Anchaladhikari, Rajoun, Banka, District- Banka
6. Rit Lal Mistri, S/O Late Biptu Mistri
7. Shambhu Mahto, S/O Bhuwaneshwar Mahto
Respondent No. 6&7, R/O Village- Anandpur, P.S.- Rajoun, Dist.- Banka

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra

For the Respondent/s : Mr. Raju Giri

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 01-07-2017 Heard learned counsels appearing on behalf of the petitioner and learned AC to GP-4 appearing on behalf of Respondent Nos.1 to 5.

The present writ application has been filed for a direction to respondent authorities to get the encroachment removed over the land pertaining to Thana No.431, Khata No.117, Plot No.90, situated in Mauza – Anandpur, in the District of Banka. The said land has been recorded in the Khatian as ‘Gairmazarua Sarva Sadharan Rasta’.



It is submitted by learned AC to GP-4 appearing on behalf of Respondent Nos.1 to 5 that the land in question is recorded in the cadastral survey Khatihan as 'Sarv Sadharan Rasta' and for removal of encroachment, Encroachment Case No.03/2009-2010 was initiated, wherein, the final order was passed on 19/01/2010 by the Respondent No.5, Circle Officer, Rajoun, Banka. Consequently, Respondent No.6, Rit Lal Mistri, filed CWJC No.13154 of 2012, which was disposed of by a Bench of this Court, vide order dated 25/09/2013, as contained in Annexure-3 to the writ petition, whereby, it was directed to execute the order passed in Encroachment Case No.03/2009-2010. Consequently, it was found that it was the petitioner who had encroached the land in question. Paragraph no.3 of the supplementary counter affidavit reads as under :-

“That it is stated that earlier counter affidavit has been filed by the answering respondent in which para no.5 (F) it has been clearly stated that private respondent no.6 and 7 has not encroached public land rather writ petitioner had encroached the same. However, after the order of the Hon'ble Court it would be pertinent to state here that as per direction enquiry has been made and measured the land in question bearing the Khata No.117, Khesra No.90 and it was found that both the respondents namely Ritlal Mistry and Shambhu Mahto have not encroached any part of the aforesaid public land thus the allegation



of the writ petition is baseless.”

Learned counsel for the petitioner submits that though the petitioner has removed the encroachment but some part of the land in question is still encroached and for removal of the same the representation has been filed before Respondent No.2, the District Magistrate, Begusarai, on 10/12/2013, as contained in Annexure-5 to the writ application, hence, counsel for the petitioner confines his prayer for disposal of the said representation by respondent no.2.

In view of the present stand of the petitioner, the writ application is disposed of to the extent of present confined prayer of the petitioner and, accordingly, it is expected from Respondent No.2, to dispose of the representation dated 10/12/2013, within a period of six weeks.

(Dinesh Kumar Singh, J)

Ashwini/-

U			
---	--	--	--

