

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9229 of 2015

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Md. Mahamud Alam, Son of Md. Anish, Resident of Village Nawadih, P.S. Aurangabad (Town) District Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar
2. The District magistrate -cum- Collector , Aurangabad.
3. The Superintendent of Police , Aurnagabad.
4. Thje Sub Divisional Officer, Aurangabad.
5. The Anchal Adhikari , Aurnagabad.
6. The Exective Officer,Nagar Panchayat , Auranagabad.
7. Md. Isarar, Son of late Md. Khadim, Resident of Village Nawadih, Ward No. 21, P.S. Aurangabad, District Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nawal Kishore Singh, Advocate
Mr. Anil Kr Singh No. 6, Advocate
For the Respondent/s : Mr. AC to GP-10

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date: 19-09-2017

Heard Mr. Nawal Kishore Singh, learned counsel
for the petitioner and learned AC to GP-10.

The present Writ application has been filed for a
direction to the respondent authorities to get the encroachment
removed from the land appertaining to Khata No. 182, Plot No. 107,
measuring an area of 9 decimals, situated in Ward No. 21, Mohalla –
Nawadih, P.S. – Aurangabad (Town), District – Aurangabad.

It is submitted by learned counsel for the petitioner
that the land in question is recorded as ‘Gairmajarua Aam’ land,



which is adjacent to the petitioner's residential house and due to the obstruction made by respondent no.7, the public at large is facing difficulty. It is further submitted that a proceeding under Section 144 of the Cr.P.C. was initiated vide Case No. 2858 of 2012, which was converted into a proceeding under Section 133 of the Cr.P.C., wherein vide order dated 16.12.2014 passed by respondent no. 4, Sub-divisional Magistrate, Aurangabad, respondent no.5, Circle Officer, Aurangabad was directed to initiate encroachment proceeding concerning the land in question. Subsequently Encroachment Case No. 20 of 2014-15 was initiated, but neither the said encroachment proceeding has been concluded nor the encroachment has been removed from the land in question. Hence, the present Writ application.

Since the Writ application was filed on 30.06.2015, but till date, no counter affidavit has been filed. Hence, this Court is not inclined to adjourn the matter any further.

Moreover, this Court is not inclined to issue notice to private respondent no. 7 in view of the nature of order, this Court intends to pass.

Considering the facts and circumstances of the case, respondent no. 5, Circle Officer, Aurangabad is expected to take the proceedings of the Encroachment Case No. 20 of 2014-15 to its



logical conclusion, within a period of three months, after giving due opportunity of hearing to all the affected persons in accordance with the provisions of the Bihar Public Land Encroachment Act, 1956.

Accordingly, this Writ application is disposed of.

(Dinesh Kumar Singh, J)

DKS/-

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	23.09.2017
Transmission Date	NA

