

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18298 of 2015

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Smt. Mariyam Kujur, (Sarpanch), W/o Sri Raghunath Lakara, Resident of
Village- Kachahari Gram Panchayat Kuretha, Block- Mansahi, P.S. Mansahi,
District Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar.
 2. The Commissioner, Purnea Division, Purnea.
 3. The Collector, Katihar.
 4. The Superintendent of Police, Katihar
 5. The Sub-Divisional Magistrate, Katihar
 6. The Circle Officer, Mansahi, District Katihar.
 7. The S.H.O. Mansahi, P.S. Katihar.
 8. Sri Manoj Urao, S/o Matru Urao
 9. Smt. Pavitri Devi, W/O Ramu Urao
 10. Smt. Bhutki Devi, W/o Late Deepak Urao,
- Respondent no. 8 to 10 are Resident of Village Golaghat, Bhakharipur, P.S.
Mansahi, District- Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raghvendra Kumar Singh, Adv.
For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 15-09-2017 Heard Mr. Raghvendra Kumar Singh, learned Counsel

appearing on behalf of the petitioner and learned AC to SC-3 for

the respondent – State.

Since the Writ application was filed in 2015, but till date,
no counter affidavit has been filed. Hence, this Court is not
inclined to adjourn the matter any further.

The nature of order this Court intends to pass, does not
require issuance of notice to the private respondents.

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 Thana No. 119, Khata No.60, Plot Nos. 109 and 64, situated in Mauza - Bhakharpur, District – Katihar.

It is submitted by learned Counsel appearing on behalf of the petitioner that the land in question is a public land/road and the same has been recorded in the revenue record as ‘Gair Majarua Sarv Sadharan’ land, but the said land has been encroached upon by the private respondent nos. 8 to 10, namely Manoj Urao, Pavitri Devi and Bhutki Devi, respectively. A public petition was filed on 19.05.2011 before the Sub-Divisional Officer, Katihar, as contained in Annexure-1, for removal of the encroachment. The Sub-Divisional Officer, Katihar, vide letter no.1089, dated 23.05.2011, directed respondent no.6, the Circle Officer, Mansahi, to get the encroachment removed from the land in question. Consequently, Encroachment Case No.2/2011-12 was initiated under the Bihar Public Land Encroachment Act (hereinafter referred to as ‘the Act’). The Circle Officer directed the Anchal Amin, Mansahi, for measurement of the land in question and to submit a report in this regard. The Anchal Amin after measuring the land in question submitted a report to the effect that the said



land is a public road which is recorded as a 'Gair Majarua Gram Bhoomi', but the same has been encroached upon by the private respondents. Consequently, a notice was issued to the private respondents for removal of the encroachment from the land in question, as contained in Annexure-3 series, but the encroachment was not removed. Thereafter, a public petition was submitted before respondent no.3, the District Magistrate, Katihar, in Janta Darbar, as contained in Annexure-4. In pursuance to the same, the Sub-Divisional Officer, Katihar, called for a show cause from respondent no.6, the Circle Officer, Mansahi, vide letter no. 204, dated 16.02.2012. But in spite of that, no action was taken, then again, a public petition was submitted before respondent no.2, the Commissioner, Purnea Division, respondent no.3, the District Magistrate, Purnea and respondent no.6, Circle Officer, Mansahi, as contained in Annexure-6 series. Consequently, the District Magistrate, Katihar vide order dated 16.06.2015, as contained in Annexure-7, directed the Circle Officer to conclude the proceeding of Encroachment Case No. 02 of 2011-12, which is pending since last three years. But it appears from the record that subsequently, Encroachment Case No. 02/2015-16 was initiated afresh and a notice was issued to the private respondent nos.8 to



10, dated 31.07.2015, under the signature of respondent no.6, the Circle Officer, Mansahi, as contained in Annexure-8. Hence, the present Writ application.

Learned AC to SC-3 appearing on behalf of the respondent State submits that at present, he is not having any instruction whether the encroachment proceeding has been concluded or not.

This Court is dismayed to find that Encroachment Case No. 02 of 2011-12 was already initiated in pursuance to the direction of the Sub-Divisional Officer and it was still pending, concerning which the District Magistrate, vide order dated 16.06.2015, directed the Circle Officer to conclude the proceeding of Encroachment Case No. 02 of 2011-12, then under what circumstances, fresh proceeding being Encroachment Case No.02 of 2015-16 has been initiated.

Considering the rival submissions of the parties, this Court is really dismayed to find the callous and arbitrary manner in which respondent no.6, the Circle Officer, Mansahi, is discharging the *quasi judicial* function.

In the circumstances, respondent no.3, the District Magistrate, Katihar, is expected to take needful action against respondent no.6 for such gross misconduct.



Respondent no.6, the Circle Officer, Mansahi, is directed to conclude the proceeding of both the encroachment cases aforementioned, after amalgamating the same, within a period of three months, if it has not already been concluded, after giving due opportunity of hearing to all the affected persons under the provisions of the Act.

With the aforementioned observation and direction, the Writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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