

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13663 of 2016

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Paresh Jha Son of Late Musafir Jha resident of Village- Madhopur, P.O.-
Turkauliya, P.S.- Bathnaha, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue Department, Old Secretariat, Patna.
2. The Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Old Secretariat, Patna.
3. The Commissioner, Tirhut Division, Muzaffarpur District, Muzaffarpur.
4. The Inspector General of Police, Tirhut Division, Muzaffarpur, District- Muzaffarpur.
5. The District Magistrate, Sitamarhi, District- Sitamarhi.
6. The Superintendent of Police, Sitamarhi, District- Sitamarhi.
7. The Circle Officer, Bathnaha, District- Sitamarhi.
8. The Officer-in-charge Bathnaha Police Station, District- Sitamarhi.
9. Palat Jha Son of Raghubansh Jha
10. Satal Jha Son of Dukha Raut
11. Lakhmi Raut Son of Dukha Raut Respondent no.9 to 12 are resident of Village- Madhopur, P.S.- Bathnaha, District- Sitamarhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shankar Kumar

For the Respondent/s : Mr. Subhash Chandra Yadav- GP 15

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 22-03-2017

Heard learned counsel for the petitioner and learned AC to
GP 15 for the State.

The present writ application has been filed for a direction
to the respondents-State for removal of alleged encroachment made
by the respondents no. 9 to 11 over public road appertaining to Plot
No. 1446, measuring an area of about 280 square feet situated in
village Madhopur P.S. and Anchal-Bathnaha, Thana No. 181 in the



District of Sitamarhi.

Learned counsel for the petitioner submits that the land appertaining to Plot No. 1446, Thana No. 181 situated in village Madhopur in the District Sitamarhi is a government land and is being used by the local people including the petitioner as a public road but the respondents no. 9 to 11 have encroached upon the said public road.

Learned counsel for the petitioner submits that on 01.03.2012 a representation for removal of encroachment was submitted by the petitioner in Janta Darbar of Collector, Sitamarhi. Consequently, an encroachment proceeding was initiated by the respondent no. 7, i.e., the Circle Officer, being Encroachment Case No. 01 of 2012-13. Subsequently, the respondent no. 7, the Circle Officer, by order dated 27.06.2012 passed in Encroachment Case No. 01/2012-13 directed the in-charge Anchal Amin to submit measurement report. The Anchal Amin submitted his report on 13.02.2013 as contained in Annexure 1 along with the trace map suggesting the encroachment made by respondents no. 9 & 10 and others on the plot in question. Thereafter, in view of the report of in-charge Anchal Amin i.e., the respondent no. 7, the Circle Officer, directed for issuance of notice, vide undated order as contained in Annexure 3, to respondents no. 9 & 11 under Section 3 of Bihar Public



Land Encroachment Act. The said document neither bears date of issuance of notice nor encroachment case number.

It is submitted by learned counsel for the petitioner that pursuant to the grievances raised in Janta Darbar of District Magistrate the respondent no. 7 i.e., the Circle Officer submitted action taken report as contained in annexure 4 to In-charge Deputy Collector, D.M. in the Janta Darbar to the effect that Encroachment Case No. 01 of 2012-13 has been initiated and needful action is being taken for removal of encroachment. It is further submitted on behalf of learned counsel for the petitioner that till date neither encroachment proceeding has been concluded nor the encroachment has been removed.

Learned AC to GP 24 submits that at present she does not have any instruction whether the encroachment proceeding has been concluded or whether the encroachment has been removed or not.

Considering the rival submissions of the parties, it is expected that the respondent no. 5, the District Magistrate, Sitamarhi looks into the matter. The order and action taken report contained as Annexure nos. 3 and 4, reflects the casual manner in which the respondent no. 7, the Circle Officer, is discharging the quasi-judicial function in casual manner. The order contained in Annexure 3 is undated and does not bear the Encroachment case number.



It is expected from respondent no. 5 to get the encroachment proceeding concluded within a period of three months from the date of receipt/production of a copy of this order, after giving due opportunity of hearing to the affected persons in accordance with provisions of Bihar Public Land Encroachment Act.

With the aforesaid observations this writ application is disposed of.

(Dinesh Kumar Singh, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

