

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13807 of 2016

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Banarsi Prasad S/o Late Shiv Prasad Sah R/o Village Sugauli, Ward No. 8, P.S. Sugauli, District - East Champaran, Motihari.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Land Reforms Department, Govt. of Bihar, Patna.
2. The District Magistrate/Collector, East Champaran, Motihari.
3. The Sub Divisional Officer, East Champaran, Motihari.
4. The Land Reforms Deputy Collector, Sadar Motihari, East Champaran, Motihari.
5. The Circle Officer, Sugauli, District - East Champaran, Motihari.
6. Vishwanath Prasad S/o Late Shiv Prasad R/o Village Sugauli, Ward No. 8, P.S. Sugauli, District - East Champaran, Motihari.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Advocate

For the Respondent/s : Mr. Raj Kishore Roy-GP18

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 24-03-2017

Heard learned counsel for the petitioner and Mr. Raj Kishore Roy, learned GP18 for respondent nos. 1 to 5.

The present writ application has been filed for a direction to the respondent authorities for removal of encroachment, made by respondent no.6 and others, upon the government land appertaining to Khata No.32, Thana No.38, situated in Village- Sugauli, in the District of East Champaran. The land, in question, is recorded as *Gair Majarua Aam* land.

It is submitted by learned counsel for the petitioner that



the petitioner filed an application on 17.12.2014, as contained in annexure-1, before the respondent no.5, the Circle Officer, Sugauli, , with a prayer for removal of the encroachment, made by respondent no.6, from the land, in question, which is situated in front of the house of the petitioner, as a result of which ingress and outgress of the petitioner from his house has substantially been impeded. In pursuance to the said representation of the petitioner dated 17.12.2014, the Circle Officer called for a report from the Circle Inspector, Sugauli, who submitted his report on 29.12.2014, as contained in Annexure – 2, to the effect that the land, in question, has been encroached by respondent no.6 by constructing a shop with asbestos roof. Hence he recommended for initiation of proceeding for removal of encroachment, as contained in annexure-3. Consequently, respondent no.5, vide order dated 10.01.2015, issued notice to respondent no.6, for removal of encroachment, from the land, in question, within two days, failing which he would be evicted forcefully. It is further submitted that respondent no.5 issued another notice, vide order dated 03.02.2015, as contained in annexure-4, giving further opportunity to respondent no.6 to vacate the land, in question, within a period of one week, otherwise action would be taken for forceful eviction,. Thereafter, the Circle Officer issued Memo No.153, dated 10.03.2015, as contained in annexure-5,



directing the *Anchal Amin*, Sugauli, to report after measurement of the land, in question, with sketch map. Though, the Circle Officer did not initiate any proceeding under the Public Land Encroachment Act. Respondent no.4, the Deputy Collector Land Reforms, Sadar, Motihari, initiated Encroachment Case No.01/2015-16 and issued notice vide order dated 16.04.2015, as contained in annexure-6, to respondent no.6, directing him to remove the encroachment within a period of 15 days, or to appear before the Court on 02.05.2015 to explain why he should not be evicted forcefully. Consequently, the Sub-Divisional Officer, Sadar, Motihari, vide order dated 02.04.2016, as contained in annexure-7, deputed Badri Prasad Gupta, Circle Officer, Sugauli, as Executive Magistrate, and directed the officer In-charge Sugauli police station to depute police force to accompany the Magistrate in view of the request made by respondent no.5 for deputation of Magistrate and police force for removal of encroachment, but till date the encroachment has not been removed from the land, in question.

It is further submitted by learned counsel for the petitioner that two proceedings for removal of the same encroachment have been mentioned, one by Circle Officer, Sugauli, respondent no.5 and the other by the Deputy Collector Land Reforms, Motihari, Sadar, respondent no.4, but till date neither the Encroachment Case



No.01/2015-16, has been concluded nor the encroachment has been removed.

Mr. Raj Kishore Roy, learned GP-18 appearing for the respondent State submits that he has no instruction whether Encroachment Case No.01/2015-16, has been concluded and whether the encroachment has been removed or not? Hence, he prays for giving a direction to conclude Encroachment Case No.01/2015-16 within a time frame.

Considering the rival submissions of the parties, the writ application is disposed of with a direction to respondent nos. 4 and 5 get their orders, executed and to conclude Encroachment Case No.01/2015-16, if it has not already been concluded, within a period of four months from the date of receipt/production of a copy of this order.

Accordingly, the writ application is disposed of.

(Dinesh Kumar Singh, J)

Ashwini/-

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

