

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11634 of 2016

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1. Bhola Nath Singh @ B. N. Singh, S/O Late Subedar Singh, resident of Village-
Delha, P.S.-Buniyadganj, District-Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Commissioner, Magadh Division, Gaya, District-
Gaya.
2. The District Magistrate, Gaya, District- Gaya.
3. The Sub Divisional Magistrate, Sadar, District- Gaya.
4. The Circle Officer, Manpur Block, District- Gaya.
5. Saryu Singh S/O Chander Singh, resident of Village- Delha, P.S.-Buniyadganj,
District-Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ravindra Kumar Sinha, Adv .

For the Respondent/s : Mr. Krishna Kant Tiwari

Mr. Vishwa Ranjan Choudhary, A.C. to S.C.27

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 06-04-2017

Heard learned counsel for the petitioner and learned
A.C. to S.C.-27 for respondent nos. 1 to 4.

The present writ application has been filed with a prayer
for a direction to the respondent authorities for removal of the
encroachment made by respondent no.5 over seventy feet long water
channel (Pyne) and forty six feet road area appertaining to Thana No.
241, Khata No. 86, Plot No. 386/387 situated in the village Delha,
under Manpur Block in the District of Gaya.

It is submitted by the learned counsel for the petitioner
that the petitioner submitted an application on 08.06.2012, as



contained in Annexure-1, before the Circle Officer, Manpur, respondent no. 4 and a copy of the same was sent to the District Magistrate, Gaya, respondent no.2 and Sub-Divisional Officer, Sadar, Gaya, respondent no.3 with a request for removal of the encroachment made by Saryu Singh, respondent no.5 over the land in question on which water channel and road are situated. Consequently, vide Memo No. 222 dated 22.06.2013, as contained in Annexure-2, issued under the signature of respondent no.4, in view of the public petition, Circle Amin was directed to conduct the measurement of land in question, in presence of Circle Inspector and Officer-In-Charge and was also directed to submit a report. Though, the measurement was done and during measurement, the encroachment was found existing, as alleged by the petitioner and other villagers, but the said report was neither made public nor any proceeding for removal of encroachment was initiated.

It is further submitted that when the petitioner did not get any information with regard to measurement done by the Circle Amin, then the petitioner sought an information under 'Right to Information Act' from the office of respondent no.4, Circle Officer, Manpur. Consequently, the information was supplied to the petitioner vide I.D. No. 22, as contained in Annexure-3, to the effect that the land in question was measured in presence of police personnel of



Buniyadganj Police Station, Circle Inspector and Halka Karmchari and it was found that respondent no.5, Saryu Singh has encroached upon the land in question and action is being taken for removal of the encroachment, but in spite of that no action has been taken for removal of the encroachment. The petitioner submitted an application before the District Magistrate, Gaya on 13.10.2013, as contained in Annexure-4, with a prayer for removal of the encroachment. Yet the encroachment has not been removed despite the fact that not only the public path way has been obstructed but water channel has also been obstructed.

Learned A.C. to S.C.-27 submits that at present he does not have any instruction with regard to initiation of any proceeding for removal of encroachment. However, information supplied under R.T.I. Act, as contained in Annexure- 2, prima facie, reflects the existence of encroachment on the public land.

It appears from the records that the order for measurement of the land in question was issued by the Circle Officer, Manpur, respondent no.4 on 20.06.2013, as contained in Annexure-2, whereas from the information supplied under 'Right to Information' Act, as contained in Annexure-3, it appears that during measurement, encroachment was found existing over the land in question and required action was being taken prior to 18.07.2013, the day, the



information was supplied but there is nothing on record to suggest that any encroachment proceeding was initiated or any order for removal of encroachment has been passed.

In the circumstances, respondent nos. 2 and 4 is expected to dispose of the representations of the petitioner dated 08.06.2012, as contained in Annexure-1, and 13.10.2012, as contained in Annexure-4, within a period of four weeks if the same have already not been disposed of and if the respondent nos. 2 and 4 come to a conclusion that there is encroachment on the public land, then, if any encroachment proceeding has not been initiated, initiate the same within a period of two weeks of the disposal of the representations of the petitioner and conclude the same within a period of four months thereafter, after giving due opportunity of being heard to all the affected persons.

With the above observation, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	NAFR
CAV DATE	N/A
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