

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15898 of 2017

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Umesh Kumar Sinha, Son of Sri Punyadeo Prasad Kushwaha, Resident of
Village- Barwa Kala, P.S.- Ghorasahan, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Revenue Department, Bihar at Patna.
2. The District Magistrate, East Champaran at Motihari.
3. The Anchaladhikati, Anchal- Ghorasahan, District- East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma, Advocate

For the Respondent/s : Mr. Md. Khurshid Alam, AAG-12
Mrs. Nutan Sahay, AC to AAG-12

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

02/ 15-12-2017

Heard learned counsel for the petitioner and Mrs.

Nutan Sahay, learned AC to AAG-12.

The present Writ application has been filed for a direction to the respondent nos. 2 and 3 to remove encroachment from the flanks of public road appertaining to Khata Nos. 446, 609, 610, 754, 773, 775, 836, 945, 987, 831, 1147, 1168, 1173 and 1181 situated within Ghorasahan Circle, District – East Champaran.

It is submitted by learned counsel for the petitioner that the flank of the road has been encroached upon, which has resulted into the narrowing down of the road and has obstructed the free flow of traffic. The petitioner claims to have



submitted a representation before respondent no. 2, the District Magistrate, East Champaran on 07.01.2017, as contained in Annexure-1 and before respondent no. 3, Circle Officer, Ghorasahan on same very day, as contained in Annexure-2, but till date encroachment has not been removed.

Learned AC to AAG-12 submits that, at present, she is not having any instruction whether the land in question is a public land or not, or whether any proceeding has been initiated under Bihar Public Land Encroachment Act (hereinafter referred to as the 'Act') or not. However, he submits that if it appears to the Circle Officer that the public land has been encroached upon a proceeding under the Act will be initiated, if it has already not been initiated and it shall be concluded within a time frame. Though, the representation brought on record, does not bear or suggest any specific date when it was submitted, nor it has been mentioned whether the land in question is recorded in the revenue records as a public land.

Considering the rival submissions of the parties, for initiating a proceeding under the Act, the only pre-condition under Section 3 of the Act is that it should appear to the Collector from an application made by any person or upon information received from any sources, that any person has made or is



responsible for encroachment upon any public land. No doubt in the present case, it appears that the representation was submitted but there is nothing on record to suggest that any proceeding has been initiated or any action has been taken by the Circle Officer, till date.

In the circumstances, petitioner is given liberty to submit a representation with due specification with regard to the encroachment before respondent no. 3, Circle Officer, Ghorasahan within a period of four weeks from today along with the order of this Court and if it appears to the Circle Officer after verifying the revenue records, he shall conduct a spot verification, whereupon if it appears to him that the public land has been encroached upon, then he will initiate a proceeding forthwith, if the same has already not been initiated, and take the same to its logical conclusion within a period of three months, after giving due opportunity of hearing to all affected persons under the provisions of the Act.

Accordingly, this Writ application is disposed of.

(Dinesh Kumar Singh, J)

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