

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12637 of 2014

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Chhotelal Ram, Son of Chandradew Ram, Village- Dhobwalia, P.S.-
Manjha Garh, Distt.- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar through Commissioner, Saran
2. The District Magistrate, Gopalganj.
3. The Superintendent of Police, Gopalganj.
4. The Block Development Officer, Manjha Garh, Distt- Gopalganj.
5. The Circle Officer, Manjha Garh, Distt- Gopalganj.
6. The S.D.M., Gopalganj.
7. The S.D.O., Gopalganj.
8. The Sub- Inspector of Police Manjha garh, Distt- Gopalganj.
9. Kundan Ram, S/o Chanrdew Ram, Vill- Dhobawalia, P.S.- Manjha Garh,
Distt. Gopalganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sushil Kumar

For the Respondent/s : Mr. Sailesh Kumar, AC to GP-5

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH
ORAL ORDER

2 31-07-2017 Heard Mr. Sushil Kumar, learned Counsel, appearing
on behalf of the petitioner and Mr. Sailesh Kumar, learned AC to
GP-5.

The present writ application has been filed for a
direction to respondent authorities to get the encroachment
removed over the land pertaining to Khata No.84, Plot No.224,
situated in Village- Dhobwalia, P.S-Manjhagarh, District-
Gopalganj, as the same has been encroached upon by Respondent
No.9, namely, Kundan Ram. The land in question is a public road.



It is submitted by learned Counsel, appearing on behalf of the petitioner, that the land in question is a public road, but the same has been encroached by Respondent No.9 by running a dairy farm and erecting huts over the land in question. However, the petitioner submitted a representation, dated 25.02.2014, before the Circle Officer, Manjharh, as contained in Annexure- 1, with a prayer for removal of the encroachment. Consequently, the Circle Officer directed the Revenue Karmachari to submit a report after conducting an enquiry. Thereafter, the petitioner submitted a representation dated 25.02.2014, before Respondent No.8, the Officer In-charge Manjharh, and Respondent No.2, the District Magistrate, Gopalganj, on 05.06.2014, but till date no action has been taken for removal of the encroachment over the land in question. Hence, the present writ application.

Learned AC to GP-5 submits that from the averments made in the writ application it does not appear that the land in question is actually recorded as a public land/road in the revenue records. However he does not have any instruction as to whether any proceeding under the Bihar Public Land Encroachment Act (hereinafter called as 'the Act') has been initiated or not.

Since, the writ application was filed on 23.07.2014, but the counter affidavit has not been filed till date, this Court is



not inclined to adjourn the matter any further. However, in view of the relief prayed for, this Court intends to pass such order which does not require issuance of notice to the private respondent.

For initiation of proceeding under section 3 of the Act, the pre-condition is an application to the Collector, made by any person or upon information received from any sources that any person has made or is responsible for the continuance of any encroachment upon any public land. In the present case, no doubt, the petitioner submitted a representation before Respondent No.5, the Circle Officer, Manjharh, as far back as on 25.02.2014, as contained in Annexure-1, and consequently, the Circle Officer, directed the Revenue Karmachari to submit a report after conducting an enquiry, but there is nothing on record to suggest that any proper proceeding has been initiated till date.

In the circumstances, Respondent No.5, the Circle Officer, Manjharh, is expected to dispose of the representation of the petitioner dated 25.02.2014, as contained in Annexure-1 to the writ application within a period of three weeks, from the date of receipt/production of a copy of this order. If it appears that the land in question is a public land/road and the same has been encroached upon, then, an appropriate proceeding be initiated under the provisions of the Act, if it has already not been initiated



and the same should be taken to its logical conclusion within a period of four months, after giving due opportunity of hearing to all the affected persons, under the provisions of the Act.

Accordingly, the writ application is disposed of.

(Dinesh Kumar Singh, J)

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