

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6986 of 2014

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Sita Ram Mahto, Son Of Late Ramfal Mahto, Resident of Village -
Hanuman Nagar (Baghopur), P.S. Rosera, District - Samastipur

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Samastipur
3. The Sub - Divisional Officer, Rosera, Samastipur
4. The Circle Officer, Sivajinagar, District - Samastipur
5. The Block Development Officer, Sivaji Nagar, Block Samastipur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ghanshyam Choudhary, Adv.

For the Respondent/s : AC to AAG-11

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 13-07-2017 Heard learned Counsel appearing on behalf of the

petitioner and learned AC to AAG-11 appearing on behalf of the

respondent State.

The present writ application has been filed for a

direction to the respondent authorities for getting the

encroachment removed which is existing over the public road

pertaining to Thana No. 43, Old Plot Nos. 402, 528 and 446,

situated in Hanuman Nagar (Baghopur), Block –Sivaji Nagar,

District- Samastipur.

It is submitted by learned Counsel for the petitioner

that in spite of several public petitions submitted before the Sub-



Divisional Officer, Rosera, District Magistrate, Samastipur and Circle Officer, Sivajee Nagar, on 22.10.2013, 31.10.2013 and 11.11.2013 (as contained in Annexure-1 series), the encroachment from the public road has not been removed.

It is submitted by learned Counsel for the respondent State that, at present, he does not have the instruction whether there is any encroachment over the public road or whether the same has been removed, or whether any proceeding has been initiated or not.

Since the writ application has been registered on 09.04.2014, this Court is not inclined to grant any further adjournment.

Having heard learned Counsel for the parties, this Court is of the view that for initiation of proceeding by the Collector under section 3 of the Bihar Public Land Encroachment Act (hereinafter called as 'the Act'), the pre-condition is an application being 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, which read

“Initiation of Proceedings :-
(1) If it appears 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 the continuance of any encroachment upon any public land, the Collector may cause to be served upon such person a notice in the prescribed form requiring him to appear on a date which shall not be less than two weeks from the date of service of notice to show cause –

- (a) why he should not be restrained from making such encroachment by issue of injunction; or
- (b) why such encroachment should not be removed.”

This fact has not been disputed by the learned Counsel for the respondent State that the land in question is not a public road nor the fact that vide Annexure-A series, intimation given to the Sub-Divisional Officer, Rosera, District Magistrate, Samastipur and to the Circle Officer, Sivajee Nagar, by filing representations on 22.10.2013, 31.10.2013 and 11.11.2013 respectively, but in spite of that no action has been taken till date, which reflects the casual manner in which the State authorities are discharging their *quasi judicial* function.

Accordingly, the writ application is disposed of with a direction to Respondent No.4, the Circle Officer, Sivajinagar, to dispose of the representations of the petitioner, contained in Annexure-1 series, if it has already not been disposed of. *Prima facie*, if it is found that there is encroachment on the public road,



then, appropriate proceeding be initiated under the provisions of the Act, if it is already not 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 provision of the Act.

(Dinesh Kumar Singh, J)

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