

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19717 of 2014

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1. Dineshwar Mishra son of Shri Ram Janam Mishra resident of village +
P.O. Domayeegarh, Police Station - Manjhi, District - Saran (Chapra)

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Rural Development
Department, Government of Bihar, Patna
2. The District Magistrate, Saran at Chapra
3. The Superintendent of Police, Saran at Chapra
4. The Sub - Divisional Magistrate, Saran at Chapra
5. The Circle officer, Manjhi, District - Saran
6. The officer - in - Charge/Station House officer, Manjhi Police Station,
District - Saran
7. Babban Singh, Son of Late Hari Shankar Singh
8. Sawaliya Singh, Son of Late Hari Shankar Singh
9. Lallan Singh, Son of late Ram Pujan Singh
10. Raj Kishore Singh, Son of late Ram Pujan Singh
11. Sajjan Yadav, Son of
12. Bijendra Bahadur Singh @ Bachchan Singh, Son of late Daroga Singh
13. Sheojee Singh, Son of late Daroga Singh
14. Shatrughan Singh, Son of Paramhansh Singh
15. Bharat Singh, Son of Paramhansh Singh
16. Anil Singh, Son of Paramhansh Singh 7 to 16 are residents of village +
P.O. Domayeegarh, Police Station - Manjhi, District - Saran (Chapra)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Tiwary

For the Respondent/s : Mr. Sushil Kumar, AC to AAG 10

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**
ORAL ORDER

2 01-09-2017

Heard learned counsels for the parties.

Since the writ application was filed in 2014 and till
date no counter affidavit has been filed, this Court is not inclined
to adjourn the matter any further.

The nature of order this Court intends to pass, does



not require issuance of notice to respondent nos.7 to 16.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the land appertaining to Survey No. 273 measuring an area of 3 bighas 5 katha situated in village Domayeegarh, Circle – Manjhi in the District of Saran as the same is a public land and is situated adjacent to the government school but it has been encroached upon by respondent nos. 7 to 16.

It is submitted by learned counsel for the petitioner that the public land has been encroached and several representations have been submitted before the respondent authorities including respondent no.5, the Circle Officer, Manjhi but till date neither any proceeding under the provisions of Bihar Public Land Encroachment Act (hereinafter referred to as the 'Act') has been initiated nor the encroachment has been removed from the land in question. Hence, the present writ application.

Learned AC to AAG 10 submits that at present, he is not in a position to submit whether any encroachment proceeding under the Act has been initiated or the encroachment has been removed from the land. He is also not in a position to controvert the contention of learned counsel for the petitioner that the land in question is a public land. It appears that a proceeding under



Section 107 of the Cr.P.C. was initiated with regard to the land in question.

Considering the rival submissions of the parties, this Court is of the view that sine qua non for initiating a proceeding under Section 3 of the Act is that it should appear to the Collector under the Act from an application made by any person or upon the information received from any source that any person has made or is responsible for the continuation of encroachment upon any public land.

No doubt, since 2012, the representations were filed by the petitioner before the respondent no.2, the District, Magistrate, Saran at Chapra and respondent no. 5, the Circle Officer, Manjhi, but no action has been taken till date.

In the circumstances, the petitioner is given liberty to file an appropriate application before the respondent no. 5, the Circle Officer, Manjhi giving details about the public land in question and the details of the encroachment made thereon within a period of three weeks from the date of receipt/production of a copy of this order with a prayer for removal of encroachment from the land in question and it is expected from the respondent no. 5, the Circle Officer, Manjhi to examine the issue and if it appears to him that encroachment has been made upon public land, then he



will initiate the proceeding under the Act forthwith and will take it to its logical end within a period of three months thereafter, after giving due opportunity of hearing to all affected persons in accordance with the provisions of the Act.

This writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

Anil/-

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