

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5484 of 2017

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Sudama Dubey, Son of Late Ram Nath Dubey, Resident of Village-Manipur,
P.S.-Dinara, District-Rohtas.

... .. Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Revenue and Land Reforms Old Secretariat, Patna, Bihar.
2. The District Magistrate, Rohtas at Sasaram.
3. The Sub-Divisional Officer, Bikramganj, Rohtas.
4. The Deputy Collector, Land Reform, Bikramganj, Rohtas.
5. The Anchaladhikari, Dinara Anchal, District-Rohtas.
6. Anchal Adhikari, Kochas, District-Rohtas.
7. Mukhiya, Khanjar Gram Panchayat, P.S.-Dinara, District-Rohtas.
8. Radhey Shyam Dubey, Son of Butai Dubey.
9. Ravi Kant Dubey,
10. Rang Nath Lal, Both Sons of Late Vishwanath Lal.
11. Bahadur Lal, All Resident of Village-Manipur, P.S.-Dinara, District-Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Surendra Kumar Mishra
For the Respondent/s : Mr. RISHI RAJ SINHA-SC19

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 29-11-2017 Heard Mr. Surendra Kumar Mishra, learned counsel for the petitioner and Ms. Archana Prasad, learned AC to SC-19 for the respondent authorities.

Though, the present writ application was registered on 11.04.2017, but till date, no counter affidavit has been filed, hence 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 private respondent nos. 8 to 11.

The present writ application has been filed for a direction



to the respondent authorities to get the encroachment removed from the land appertaining to Khata No. 44, Plot Nos. 231, 232, 237, situated in Mauza Manipur, Circle Dinara, District Rohtas.

It is submitted by learned counsel for the petitioner that the land in question is a water channel and the embankment of the same is being used as public road, but the same has been encroached upon by respondent nos. 8 to 11.

It is further submitted that in a proceeding under Section 133 Cr. P.C., one of the encroachers has been directed to remove the encroachment, but the encroachment has not been removed, as yet. Though, several representations have been filed before the respondent authorities, including respondent no.5, the Circle Officer, Dinara, as contained in Annexure-3(series), but neither any encroachment proceeding has been initiated under the provisions of the Bihar Public Land Encroachment Act (hereinafter referred to as 'the Act'), nor the encroachment has been removed as yet. Hence, the present writ application.

It is submitted by learned AC to SC-19 that at present, she is not having any instruction whether the land in question is a public land or not, or whether any encroachment proceeding for removal of encroachment from the land in question, has been initiated or not.



Considering the rival submission of the parties, this Court is of the view that for initiation of proceeding under the Act, there is a precondition under Section 3 that it should appear to the Collector under the Act, 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.

In the present case, no doubt Annexure-3(series) reflects that the representations were made before the respondent authorities particularly respondent no.5, the Circle Officer, Kochas, but there is nothing on record to suggest that any proceeding has been initiated under the Act.

In the circumstances, respondent no.5, the Circle Officer, Kochas is directed to examine the revenue record and if need be, conduct spot verification, and if it appears to him that the land in question is a public land and the same has been encroached upon, then he will initiate a proceeding under the Act forthwith, if it has already not been initiated, and take such proceeding to its logical conclusion, within a period of four months from its initiation, after giving due opportunity of hearing to all affected persons, in accordance with the provisions of the Act.

Accordingly, with the above observation and direction, the



present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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