

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1675 of 2017

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Most. Malati Devi, W/o Late Ramchandra Sah, Resident of Village- Parsa,
(Rai Tola), P.S.- Majhauria, District- West Champaran (Bettiah).

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Chief Secretary, Government of Bihar Patna.
3. The Joint Secretary Government of Bihar, Patna.
4. The District Magistrate, West Champaran (Bettiah).
5. The Sub Divisional Officer, Bettiah, Sadar, West Champaran.
6. The Circle Officer, Majhauria, West Champaran.
7. The Anchal Amin, Anchal Majhauria, P.S.- Majhauria, District- West Champaran, Bettiah.
8. Bhikhari Sah, S/o Late Nathuni Sah, Resident of Village Parsa, P.S.- Majhauria, District- West Champaran, Bettiah.
9. Laxmi Sah, S/o Late Harbansh Sah, R/o Village- Parsa, P.S.- Majhauria, District- West Champaran, Bihar.
10. Sanjay Bhagat, S/o Shambhu Bhagat, R/o Village- Parsa, P.S.- Majhauria, District- West Champaran, Bettiah.
11. Jot Narayan Singh, S/o Not known, R/o Village- Parsa, P.S.- Majhauria, District- West Champaran, Bettiah.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ramchandra Sahni, Adv.
For the Respondent/s : Mr. Subhash Chandra Yadav- GP15

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 05-07-2017 Heard learned counsel appearing on behalf of the petitioner and learned AC to GP-13 appearing on behalf of the respondent State.

The present writ application has been filed for a direction to respondent authorities for removal of the



encroachment made by Respondent Nos. 8 to 11 from the Government land, pertaining to Khata No.582, Plot No.4115, area 0.6 acre, under Mauza- Parsa Rai Tola, P.S.-Majhauria, in the District of West Champaran. Further prayer has been made for a direction to the respondent authorities to take appropriate action against the erring officer, who are not taking positive action for removal of the encroachment.

It is submitted by learned Counsel for the petitioner that an application was filed on 07/10/2013, before the Hon'ble Chief Minister, Bihar, as contained in Annexure-1 by the petitioner for removal of encroachment over Khata No.582, Plot No.4115, alleged to have been encroached by Bhikhari Sah and others. The Halka Karmchari communicated to Respondent No.6, the Circle Officer, Majhauria, for measurement of the land in question by Anchal Amin, as contained in Annexure-4. Consequently, the Respondent No.6, vide Memo No. 117, dated 08/05/2013, as contained in Annexure-3, directed the Anchal Amin for getting the land in question measured, by 21/05/2013. In pursuance to the same, the Anchal Amin measured the land in question and submitted his report on 23/02/2015 to the Respondent No.6, the Circle Officer, Majhauria, as contained in Annexure-5/1, stipulating therein that the Respondent Nos. 8 to 11



have encroached the land in question, but thereafter no action has been taken by the respondent authority.

Learned counsel for the respondent State submits that, at present, she does not have any instruction as to whether the encroachment proceeding has been initiated or not.

Section 3(1) of the Bihar Public Land Encroachment Act (hereinafter called as the 'Act') provides the method of initiation of encroachment proceeding for removal of encroachment, which reads as under :-

“Initiation of Proceedings :-
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.”

The above provision specifically provides that the encroachment proceeding can be initiated, if it appears to the Collector, upon 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 public land.

In the present case, Respondent no.6, as yet, the Circle Officer, Majhauria, was not only intimated through the representation of the petitioner, but he also took action by directing the Anchal Amin to get the land measured. It is surprising that the present writ application has been filed in 2017, after more than two years of the report being submitted by the Anchal Amin to the Circle Officer, Manjhauria, but no action has apparently been taken by Respondent No. 6 which speaks a lot about the casual manner in which the quasi-judicial functions are being discharged.

In the circumstances, Respondent no.6, the Circle Officer, Majhauria, is directed to take notice of the report submitted by Anchal Amin on 23/02/2015, as contained in Annexure5/1 and if it is found that encroachment has been made over the public land/government land, then appropriate proceeding should be initiated under the Act, within a period of four weeks, on receipt/production of a copy of this order, if such proceeding has been initiated or concluded as yet then the same should be taken to its logical conclusion, within a period of four weeks



thereafter, after giving due opportunity of hearing to all the affected persons, in accordance with the Act.

Accordingly, the writ application is disposed of.

(Dinesh Kumar Singh, J)

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