

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5017 of 2017

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1. Maheshwar Prasad Singh, S/o Late Shivnarayan Singh, resident of village
- Raipatti, P.O. + P.S. Dighwara, Distt. - Saran at Chapra

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of
Revenue and Land Reforms, Bihar, Patna
2. The District Magistrate - Cum - Collector, Saran at Chapra
3. The Sub - Divisional Officer, Sonapur, Saran, Bihar
4. The Circle Officer, Dighwara, Saran, Bihar
5. Mira Devi, W/o Late Triloki Singh,
6. Munmun Singh, S/o Late Satyadev Singh,
7. Rajnath Singh, S/o Late Shiv Shankar Singh,
8. Ramji Singh, S/o Late Shiv Shankar Singh,
9. Suraj Singh, S/o Late Yadunandan Singh,
Respondent Nos. 5 to 9 residents of village - Raipatti, P.O. + P.S. Dighwara,
Ward No. 10, Distt. - Saran at Chapra

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nitesh Kumar

For the Respondent/s : Mr. Md.Khurshid Alam-Aag12

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

2 11-07-2017 Heard learned counsel for the petitioner and learned
counsel for the State.

The present writ application has been filed for a
direction to the respondent authorities to initiate a proceeding
under Bihar Public Land Encroachment Act (hereinafter called the
Act) considering the representations of the petitioner submitted
before the various authorities as public land appertaining to Thana
No.142, Tauzi No.3142, Khata No.29 and 110, Survey Plot
No.444, 473, 472 and 443 has been encroached upon by the



respondent nos.5 to 9 situated in Mauza Raipatti, District-Saran.

In view of the relief prayed for and nature of order this Court intends to pass, it does not appear reasonable to issue notice to the respondent nos.5 to 9.

It is submitted by learned counsel for the petitioner that the abovementioned public road has been encroached by the respondent nos.5 to 9 blocking the free flow of the traffic. For removal of the same, petitioner submitted representations before the respondent no.4, Circle Officer, Dighwara on 17.05.2016 and 27.01.2017, as contained in Annexure-1 and 4, before the respondent no.3, Sub-Divisional Officer, Sonapur on 13.07.2016, as contained in Annexure-2, before the respondent no.2, District Magistrate-cum-Collector, Saran on 22.12.2016 and 08.02.2017, as contained in Annexure-3 and 5, including the representations transmitted to the respondent nos.2, 3 and 4 through speed post as contained in Annexure-6, 7 and 8, but no step has been taken for initiation of a proceeding under the Act. Hence, the present writ.

Learned AC to AAG-12 submits that, at present, he does not have any information whether a proceeding has been initiated or not till date.

Considering the rival submissions of the parties and in view of the nature of the prayer made in the writ application,



this Court is not inclined to adjourn the matter for filing counter affidavit on behalf of the respondents.

Section 3 of the Bihar Public Land Encroachment Act provides the pre-conditions for initiation of a proceeding by Collector under the Act which stipulates that the same can be initiated on application made by any person or upon information received from any source that any person has made or is responsible for the continuance of any encroachment upon any public land.

In view of the various representations submitted by the petitioner it appears that the first representation petitioner submitted on 17.05.2016 and thereafter several representations were submitted before the respondent nos.2 to 4, but no proceeding has been initiated which prima facie suggests that the respondent authorities are reluctant to exercise the quasi-judicial functions under Section 3 of the Act.

In the circumstances, this writ application is disposed of with a direction to the respondent no.4, the Circle Officer, Dighwara, to dispose of the representations of the petitioner, as contained in Annexure-1 and 4, dated 17.05.2016 and 27.01.2017 and if he, prima facie, finds that the public road or the land has been encroached upon then initiate a proceeding



under the Act within a period of three weeks and take the same to its logical conclusion within a period of four months after giving due notice to all affected persons in accordance with the provisions of the Act provided the same has already not been initiated.

(Dinesh Kumar Singh, J)

Arvind/-

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