

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13029 of 2014

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Raj Deo Raut, S/o Sri Ram Shrest Raut, Resident of Village Masauadha, P.O. Piparahi, P.S. Piparahi, District Sheohar.

.... Petitioner/s

Versus

1. The State of Bihar.
2. District Magistrate cum Collector, Sheohar.
3. Anchal Adhikari, Piparahi, District Sheohar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Prasad Singh

For the Respondent/s : Mr. Amar Nath Deo. DV-26

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 31-07-2017

Heard Mr. Jitendra Prasad Singh, learned counsel for the petitioner and Miss Prakita Sharma, learned AC to SC-25.

The present writ application has been filed on 31.07.2014, hence, this Court is not inclined to adjourn the matter any further.

The writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the public land appertaining to Khata No. 549, Plot No. 3097 having an area of 8.70 acres situated in village – Masodha, P.S. Piparahi,



District – Sheohar as the land in question recorded in the Khatiyani as Gairmajarua Sarvsadaran Aam and the nature of land is a pond which was used by the public at large but the same has been encroached upon.

It is submitted by learned counsel for the petitioner that the land in question is recorded in the records of rights as Gairmajarua Sarvsadaran Aam, as contained in Annexure-1, and the nature of the land is pond which is used by the public at large but the same has been encroached upon by several unauthorized persons. The brother of the petitioner submitted an application on 29.12.2010 before the Circle Officer, Piprahi, respondent no. 3, as contained in Annexure-2, for getting the encroachment removed and thereafter before District Magistrate, Sheohar on 01.09.2012, as contained in Annexure-3. Subsequently, another application was submitted before the District Magistrate, Sheohar on 18.05.2013, as contained in Annexure-4, but till date neither any encroachment proceeding has been initiated nor, the encroachment has been removed from the land in question. Hence, the present writ application.

Learned AC to SC-25 submits that, at present, she is not having any instruction whether the encroachment proceeding has been initiated or not.

Considering the rival submissions of the parties, this



Court is of the view that for initiating a proceeding under Bihar Public Land Encroachment Act (hereinafter called as the 'Act') Section 3 of the Act, the Collector under the Act can initiate a proceeding when it appears to him from an application made by any person or upon information received from any source to the effect that any person has made or is responsible for encroachment upon any public land, then the Collector may issue notice to all such persons.

Annexure-1 suggests that the land in question is Gairmajarua Sarvsadaran Aam and recorded that there is a pond on it. Annexure-2 to 4 reflects that the District Magistrate, Sheohar and Circle Officer, Piprahi, respondent nos. 2 and 3 came to know about encroachment as on 29.12.2010, 01.09.2012 and 18.05.2013 but there is nothing on record to suggest that any proceeding has been initiated as yet.

In the circumstances, let respondent no. 3, Circle Officer, Piprahi dispose of the representation of the petitioner dated 29.12.2010, as contained in Annexure-2 within a period of three weeks from the date of receipt/production of a copy of this order and if he comes to a conclusion that the land in question has been encroached upon then initiate a proceeding under the Act forthwith. It is further expected from respondent no. 3 to take such proceeding to its logical conclusion within a period of four months from its



initiation, after giving due opportunity of hearing to all the affected persons, under the provision of the Act.

Accordingly, this writ application is disposed of.

(Dinesh Kumar Singh, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.08.2017
Transmission Date	NA

