

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16515 of 2016

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Pawan Kumar Singh Son of Gourishankar Singh R/o Vill - Murtiya P.S. - Adapur District - East Champaran, Motihari.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Land Reforms Department, Govt. of Bihar, Patna.
2. The District Magistrate/Collector, East Champaran, Motihari.
3. The Sub Divisional Officer, Raxaul, East Champaran, Motihari.
4. The Land Reforms Deputy Collector Raxaul, East Champaran, Motihari.
5. The Circle Officer, Adapur East Champaran, Motihari.
6. Surendra Pal
7. Umesh Pal Both are sons of Laxman Pal R/o Vill - Murtiya P.S. - Adapur District - East Champaran, Motihari.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra

For the Respondent/s : Mr. MD.KHURSHID ALAM-AAG12

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 22-03-2017

Heard learned counsel for the petitioner and learned AC to AAG 12 for the State.

The present application has been filed for a direction to respondent no. 3 for removal of encroachment made by the respondents no. 6 and 7 over a public road appertaining to Thana No. 98, Khata No. 215, Khesra No. 289 situated in village Murtiya, P.S. Adapur in the District of East Champaran at Motihari.

It is submitted by learned counsel for the petitioner that the land appertaining to Khesra No. 289, Khata No. 215, measuring area



of 45 decimals is a Gairmazaura Rasta but the same has been encroached upon by respondents no. 6 and 7 by constructing house after cutting green trees. The public road is being used by public at large including the petitioner. The petitioner submitted an application on 30.01.2015 as contained in Annexure 1 before the respondent no. 3, the Sub-Divisional Officer, Raxaul giving in detail how after cutting the trees respondents no. 6 and 7 are constructing brick house on the land in question. Consequently, the respondent no. 3 the Sub-Divisional Officer called for a report from the Circle Officer who, after due enquiry, submitted a report on 30.01.2016 as contained in Annexure 2 suggesting that green trees have been cut and a house is under construction over the land in question which is a public road recorded as Gair Mazaura Rasta. Consequently, the Anchal Amin was directed to submit a measurement report with regard to land appertaining to Plot No. 285 who submitted the report on 02.02.2016 as contained in Annexure 3 suggesting that the land in question is recorded as Gairmazura Aam Rasta but respondent nos. 6 and 7 after cutting trees are constructing house over the land in question. Thereafter the petitioner submitted several representations and lastly on 8.03.2016, before the Circle Officer i.e., respondent no. 5 as contained in Annexure 4, but neither any encroachment proceeding has been initiated nor the encroachment has been removed.



Learned AC to AAG 12 submits that at present he has no instruction as to whether the encroachment proceeding has been initiated or the encroachment has been removed or not.

Keeping in view, the nature of relief sought for, the respondent no. 2, i.e., the District Magistrate, East Champaran, Motihari is directed to look into the matter, by taking into consideration the laches due to the inaction, despite the two reports submitted by the Revenue Karmachari and the Amin, wherein encroachment was suggested on the Gair Mazarua Rasta. It is also expected from the Respondent no. 2 to ascertain whether encroachment proceeding is required to be initiated or not and if the same has not been initiated and the Respondent no. 2 takes a decision to initiate an encroachment proceeding, the same may be concluded in accordance with the provisions of Bihar Public Land Encroachment Act, within a period of five months, after affording due opportunity of hearing to all the affected parties.

With the above observations, the writ application is disposed of.

(Dinesh Kumar Singh, J)

Prakash/-

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