

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.21105 of 2014**

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1. Rama Shankar Rai Azad S/o - Late Bibhuti Rai R/o Village - Chhitarchak  
Hal Badurahi, P.O. - Pahleja Barka, P.S. - Sonapur, Distt. - Saran (Chapra)

.... .... Petitioner/s

Versus

1. The State of Bihar Through Distt. Magistrate, Saran at Chapra.  
2. The Sub-Divisional Magistrate, Sonapur, Saran  
3. The Circle Officer, Sonapur, Saran  
4. The S.H.O., Sonapur, Saran Chapra.  
5. Lal Bahadur Rai @ Gandhi Rai S/o - Late Bhola Rai R/o Village -  
Chhitarchak, Hal Badurahi, P.O. - Pahleja Barka, P.S. - Sonapur, Distt. -  
Saran.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Shyameshwar Kumar Singh  
For the Respondent/s : Mr. Prabhat Kumar, AC to G.A. 11

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

2      04-09-2017                      Heard learned counsels for the parties.

Since the writ application was filed in 2014 and till  
date no counter affidavit has been filed by the respondents, 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 no.5.

The present writ application has been filed for a  
direction to the respondent authorities to get the encroachment  
removed from the village road in between the cattle shed of  
Munga Rai to the courtyard of Bibhuti Singh, situated in village  
Chhitarchak in the District of Saran.



It is submitted by learned counsel for the petitioner that the road was constructed from a public fund under NAREGA scheme in 2009-10 but the same has been encroached upon by the private respondent no. 5, Lal Bahadur Rai @ Gandhi Rai. Though a proceeding under section 133 of the Cr.P.C was initiated but the encroachment has not been removed from the land in question.

Learned AC to GA 11 submits that at present, he is not in a position to submit whether any encroachment proceeding under the Bihar Public Land Encroachment Act (hereinafter referred to as the 'Act') has been initiated or the encroachment has been removed. He is also not in a position to controvert the contention of the learned counsel for the petitioner that the land in question is a public land. It appears from the record that a proceeding under section 133 of the Cr.P.C. was initiated with regard to the land in question.

The pleadings of the writ application do not reflect the exact nature of the land recorded in the Khatian or the exact specification of the road in question. The writ application also does not reflect that any application was made before the respondent no.3, Circle Officer, Sonapur for initiating a proceeding under the Act.

In the circumstances, the petitioner is given liberty



to file an appropriate application before the respondent no. 3, the Circle Officer, Sonapur giving detail about the public land in question and also the details of the encroachment made thereon within a period of three weeks from the date of receipt/production of a copy of this order with a prayer for removal of encroachment from the land in question. It is expected from the respondent no. 3, the Circle Officer, Sonapur to examine the issue and if it appears to him that encroachment has been made upon public land, then he will initiate the proceeding under the Act forthwith and will take it to its logical end within a period of three months thereafter, after giving due opportunity of hearing to all affected persons in accordance with the provisions of the Act.

This Writ application is, accordingly, disposed of.

**(Dinesh Kumar Singh, J)**

Anil/-

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