

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11022 of 2014

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Lalesh Kumar, S/o Bipat Rai, R/o Village Bardiha Turki, P.S. Patepur,
District Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
 2. The Chief Secretary, Government of Bihar, Patna.
 3. The Principal Secretary, Home, Government of Bihar, Patna.
 4. The Principal Secretary, Rural Development, Government of Bihar, Patna.
 5. The Director General of Police, Bihar, Patna.
 6. The District Magistrate, Vaishali at Hajipur.
 7. The Superintendent of Police, Vaishali at Hajipur.
 8. The Sub Divisional Magistrate, Mahua, Vaishali.
 9. The Circle Officer, Patepur, Vaishali.
 10. Jagdip Sahni
 11. Gopal Sahni
- Both Sons of Mauji Sahni R/o Village Bardiha Turki, P.S. Patepur, District Vaishali.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Surendra Kumar Singh, Adv.
Mr. Avinash Shekhar, Adv.
Miss. Tulika Singh, Adv.

For the State : Mr. Nadeem Seraj, GP-5
Mr. Shailesh Kumar, AC to GP-5

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 19-07-2017 Heard Mr. Surendra Kumar Singh, learned counsel

for the petitioner and Mr. Shailesh Kumar, learned AC to GA-5

appearing on behalf of the State.

The present writ application has been filed for a
direction to the respondents 1st set to get the encroachment
removed over the public road appertaining to Plot No.6626, Thana



No.497 situated in Mauza Bardiah Turki in the District of Vaishali.

Though a counter affidavit has been filed on behalf of the respondent no.7, the Additional Superintendent of Police, Vaishali, but no counter affidavit has been filed on behalf of the respondent no.9, the Circle Officer, Patepur, Vaishali.

Since the matter is pending since 03.07.2014, this Court is not inclined to adjourn the matter any further for filing counter affidavit on behalf of the respondent no.9. This Court is also not inclined to issue notice to the private respondent nos.10 and 11, in view of the nature of the order this Court intends to pass.

It is submitted by learned counsel for the petitioner that the land in question is a public road, but, the same has been encroached upon by the respondent nos.10 and 11. The petitioner submitted an application before the District Magistrate, Vaishali on 13.02.2014, with a prayer for removal of the encroachment from the land in question, as contained in Annexure-5 series. It appears that for removal of the encroachment from the land in question, a proceeding being Encroachment Case No.03 of 2013-14/10 of 2013-14 was initiated. The various orders, passed in the encroachment proceeding, have been brought on record as



Annexure-2. The order dated 02.09.2013 reflects that the report of the Anchal Amin was called for and from the report of the Anchal Amin, the Circle Officer, Patepur, respondent no.9, came to a conclusion that the encroachment has been made on the land in question. Hence, notices were issued to encroachers, but, after that, the matter was adjourned for appearance of the opposite parties on 07.09.2013, 09.09.2013, 11.09.2013 and 14.09.2013, but all of sudden on 30.09.2013, the Officer-in-Charge, Patepur was requested for deputation of the police officer for removal of the encroachment. The order-sheets, as contained in Annexure-2, does not reflect that any notice under Section 3 of the Bihar Public Land Encroachment Act was issued to the affected persons or any final order under Section 6 (1) of the Act was passed by the Circle Officer or consequently, any notice under Section 6(2) in Form-II was ever been issued.

It is submitted by learned AC to GP-5 that the proceeding of encroachment case is still pending.

In the circumstances discussed above, it is expected from the Circle Officer, Patepur, respondent no.9, to conclude the proceeding of Encroachment Case No.03 of 2013-14/10 of 2013-14 within a period of three months, if it has not already been concluded, after giving notice to all affected persons in accordance



with the provisions of the Bihar Public Land Encroachment Act.

In the circumstances, this writ application is disposed of.

(Dinesh Kumar Singh, J)

Arvind/-

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