

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17675 of 2014

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Ram Udit Yadav, Son of Late Shyamjee Yadav, Resident of village -
Bharub, P.S.-Obra, District - Aurangabad

.... Petitioner

Versus

1. The State of Bihar through the Commissioner
2. The District Magistrate, Aurangabad
3. The Sub-Divisional Officer, Aurangabad
4. The D.C.L.R., Aurangabad
5. The Circle Officer, Aurangabad
6. Gupteshwar Gupta, Son of Sri Baliram Sao, Resident of village-Bharub,
P.S.-Obra, District - Aurangabad

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Sinha, Adv.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 18-08-2017 Heard Mr. Anil Kumar Sinha, learned counsel for the

petitioner and learned A.C. to S.C.-13 for respondent nos. 1 to 5.

Since the case was registered on 14.10.2014 and till

date no counter affidavit has been filed, 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.6.

The present writ application has been filed for a

direction to the respondent authorities to get the encroachment

removed over a public street appertaining to Khata No. 245, Plot

No. 2839, situated in Village Bharub, P.S. Obra, District



Aurangabad, which is being used by public at large as 'Rasta'.

It is submitted by learned counsel for the petitioner that the street in question is used by public at large, but the same has been encroached upon by private respondent no.6, Gupteshwar Gupta. A public representation was submitted before respondent no.2, the District Magistrate, Aurangabad on 1st of December, 2011, but till date neither the encroachment has been removed nor any proceeding under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') has been initiated.

Learned A.C. to S.C.-13 submits that after filing of the present writ application, Encroachment Case No. 04 of 2014-15 has been initiated and a report has been called for from the Halka Karamchari-cum-Circle Inspector, vide order dated 05.01.2015, who has submitted a report to the effect that the land in question is recorded as a rayati land. Hence, the proceeding of Encroachment Case No. 04 of 2014-15 has been dropped, vide order dated 22.02.2015 and the said order is appealable.

It is submitted by learned counsel for the petitioner that the petitioner is having no information about initiation of such proceeding, nor has he been noticed and the encroachment proceeding was initiated during pendency of the present Writ application, but no counter affidavit has been filed till date.



Having heard the learned counsel for the parties, it appears that encroachment proceeding, initiated with regard to encroachment on the land in question, has been dropped and the same is appealable under Section 11 of the Act.

Accordingly, the present Writ application is disposed of with liberty to the petitioner to file appeal before appropriate forum along with a petition for condonation of delay within a period of four weeks from the date of receipt/production of the copy of this order. If such appeal is filed along with the application for condonation of delay, then the appellate authority is expected to consider the prayer for condonation of delay, keeping in view the fact that the petitioner was pursuing his remedy before this Court through the present writ application since 2014 and the encroachment proceeding has been dropped without any notice being received by the petitioner.

(Dinesh Kumar Singh, J)

Amrendra/-

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