

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17630 of 2015

=====

Sitaram @ Sitaram Ram, S/o Late Jagdish Ram, R/o Village - Bhitauli, P.S. Asaw, District - Siwan

... .. Petitioner/s

Versus

1. The State of Bihar
 2. The Collector - Cum - District Magistrate, Siwan at Siwan
 3. The Sub - Divisional Officer, Siwan at Siwan
 4. The D.C.L.R., Siwan at Siwan
 5. The Circle Officer, Andar Block, District - Siwan
 6. The Station House Officer, Asaw, P.S. Siwan
 7. Rajbali Ram, S/o Late Shiv Shankar Ram
 8. Bharat Ram, S/o Late Shiv Shankar Ram
 9. Balkhia Ram, S/o Late Ramdeo Ram
 10. Jaleshwari Devi, W/o Balkhila Ram
 11. Rabindra Ram, S/o Rajbali Ram
 12. Balbir Ram, S/o Bharat Ram
 13. Jaikishun Ram, S/o Late Ramdeo Ram
 14. Krishn Ram, S/o Balkhila Ram
 15. Suresh Ram, S/o Late Ramraj Ram
- All 7 to 15 are R/o Village - Bhitauli, P.S. Asaw, District - Siwan

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Satyendra Rai, Adv.
For the Respondent/s : Mr. K.K. JHA- AAG14

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 30-10-2017 Heard Mr. Satyendra Rai, learned Counsel appearing on behalf of the petitioner and Mr. K. K. Jha, learned AAG-14, appearing on behalf of the respondent nos. 1 to 6.

The present Writ application has been filed for a direction to the respondent authorities for getting the encroachment removed from the land appertaining to Khata No. 87, Survey No. 359, Thana No.275, measuring an area of 29 decimal situated in Village - Bhitauli, P.S.-Asaw, District -Siwan. The



petitioner claims to have granted Parcha vide Bandobasti Record No.9/75-76, dated 08.01.1976, as contained in Annexure-1. The name of the petitioner has been mutated in the revenue record and consequently rent receipt has been issued in his name and the petitioner came in possession over the land in question but thereafter, the private respondent nos. 7 to 15 encroached upon the land. Consequently, Encroachment Case No. 01 of 2008-09 was initiated by respondent no.4, the Circle Officer, Andar, on the application of the petitioner. Thereafter, the petitioner filed several representations, as contained in Annexures- 4 and 5, before the authority concerned, but no action has been taken till date. Hence, the present Writ application.

Mr. K. K. Jha, learned AAG-14 submits that the land in question is not a public land, hence, no proceeding can be initiated under the Bihar Public Land Encroachment Act (hereinafter referred to as 'the Act').

In view of the nature of order this Court intends to pass, this Court is not inclined to issue notice to private respondent nos. 7 to 15.

Having heard learned Counsels for the parties, this Court is of the view that the *sine qua non* for initiation of proceeding



under Section 3 of the Act is that if it appears to the Collector under the Act on an application made to the Collector by any person or upon information received from any source that any person has made or is responsible for the continuance of any encroachment upon any public land. As per own admission of the petitioner it is not a public land and if any encroachment has been made by any person over the land in question, the petitioner has the alternative remedy under the law.

In the circumstances, the Writ application is disposed of with a liberty to the petitioner to resort to appropriate remedy.

(Dinesh Kumar Singh, J)

Ashwini/-

U			
---	--	--	--

