

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14886 of 2017

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Mridula Kumari Gupta, Wife of Ramanad Prasad, Resident of Mohalla-Riga road, Ward no-1, Sitamarhi Nagar Parishad, P.S.+District - Sitamarhi

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary Revenue Department Bihar, Patna.
2. The District Magistrate, Sitamarhi.
3. The Sub-Divisional Officer, Sitamarhi Sadar, Sitamarhi.
4. The Superintendent of Police, Sitamarhi
5. The Executive Officer, Nagar Parishad Sitamarhi
6. The Circle Officer, Dumra.
7. The Chairman, Nagar Prishad, Sitamarhi.
8. Nishant kumar Singh @ Nishit Kumar Singh, Son of Narendra Kuamr Singh, Resident of Mohalla-Riga Road, Ward No-1, Sitamarhi Nagar Parishad, P.S. +District-Sitamarhi
9. Uma Shanker Prasad, Son of Radha Kishun Sah, Sitamarhi, Ward no.8, P.S. +District-Sitamarhi.
10. Binod Kumar, Son of Ram Narayan Singh, Resident of Mohalla-Riga road, Ward no-1, Sitamarhi Nagar Parishad, P.S.+District-Sitamarhi

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Devendra Kumar, Adv.
For the State	:	Mr. Raj Kishore Roy,GP-18
For Res. Nos. 5 and 7	:	Mr. Subodh Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 16-11-2017 Heard Mr. Devendra Kumar, learned Counsel appearing on behalf of the petitioner, Mr. Raj Kishore Roy, learned GP-18, appearing on behalf of the respondent-State and Mr. Subodh Kumar, learned Counsel appearing on behalf of the Nagar Parishad, Sitamarhi.

The present Writ application has been filed for a direction to the respondent authorities to remove the encroachment from the road situated at Ward No.1, within Sitamarhi Nagar



Parishad, District- Sitamarhi, which is known as Ramanand Path.

It is submitted by learned Counsel appearing on behalf of the petitioner that though the said road was constructed on the raiyati land of the petitioner, but it is being used by public at large. The petitioner has submitted representation before the Executive Officer, Nagar Parishad, Sitamarhi, but till date no action has been taken, causing inconvenience to the public at large. Hence, the petitioner ultimately prays for a direction to respondent no.6, the Circle Officer, Dumra, to dispose of the representation submitted before him on 02.06.2017, as contained in Annexure-2.

Learned Counsel appearing on behalf of the respondent-State and Nagar Parishad, Sitamarhi, submits that if the representation of the petitioner has not been disposed of, the same shall be disposed within a time frame. However, he is unable to suggest whether the land in question is a public land or not.

For initiation of a proceeding under the Bihar Public Land Encroachment Act (hereinafter referred to as 'the Act), the sine quo non is that it should appear to the Collector from an application made by any person or upon information received



from any sources that any person has made or is responsible for the continuance of any encroachment upon any public land.

In the present case, in view of the representation submitted before the Circle Officer, the Circle Officer ought to have verified from the revenue record and by conducting spot verification, whether the land in question is a public land or not, but it does not appear from the records that the authorities concerned has made any effort to conduct spot verification or to ascertain from the revenue records whether the land in question is a public land or not. The public land has been described under section 2(3) of the Act, which reads as follows :-

“Public land” means any land [managed by or] vested in the Union of India or the State of Bihar, or in any local authority [or statutory body], [public undertaking] educational institution recognized by the Government or by any University established under any law for the time being in force, Railway Company or Gram Panchayat established under, section 3 of the Bihar Panchayat Raj Act, 1947 (Bihar Act VII of 1948), and includes any land over which the public or the community has got a right or user, such as right of way, burials, cremation, pasturage or irrigation.”

The above quoted definition of public land suggests that any land over which the public or the community has got a right or user, such as right of way, burials, cremation, pasturage



or irrigation also to be treated as public land.

In the circumstances, respondent no.6, the Circle Officer, Dumra, is directed to dispose of the representation of the petitioner within a period of six weeks on receipt/production of a copy of this order, after giving due opportunity of hearing to all affected persons in accordance with the provisions of the Act.

(Dinesh Kumar Singh, J)

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