

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.469 of 2017

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Bindeshwar Prasad Kamat, Son of Janak Kamat, Resident of Village- Teghara,
Block- Babubarhi, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar, through the District Magistrate, Madhubani.
2. The Sub-Divisional Officer, Madhubani under District- Madhubani.
3. L.R.D.C., Madhubani.
4. The Block Development officer, Babubarhi under District- Madhubani.
5. The Circle Officer, Babubarhi under District- Madhubani.
6. Satynarayan Yadav.
7. Rabindra Yadav,
8. Rajendra Yadav,
9. Raj Kumar Yadav, All the 6 to 9 Respondents Son of Brahamdeo Singh.
10. Nand Kishore Raj Yadav, Son of Late Ramesh Yadav @ Khattar Yadav.
11. Ram Ashish Sah, Son of Late Hajari Sah. All Resident of village- Barail, Post Office- Teghara, Block- Babubarhi, District- Madhubani.
12. Archana Nahta, Wife of Rakesh Nehta, Resident of Village- Khutauna, Post office- Khutama, Block- Khutama, Distirct- Mandhubani.
13. Sudha Kumari, Wife of Gyanchand Kumar, Resident of village- Barailchak (Ganpati Fuel), Post Office- Teghara, Block- Babubarhi, District- Madhubani.
14. Haris Chandra Singh.
15. Deo Narayan Singh. Both Sons of Baudhu Singh, Resident of Village- Teghara, Post Office- Teghara, Block- Babubarhi, District- Madhubani.
16. Baidhynat Sah, Son of Late Ram Narayan Sah, Resident of Village- Barail Chak, Post Office- Teghara, Block- Babubarhi, District- Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Narayan Mahto

For the Respondent/s : Mr. MD. KHURSHID ALAM -AAG12

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT



Date: 21-07-2017

Heard Mr. Ram Narayan Mahto, learned counsel for the petitioner and AC to AAG-12.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from Plot No. 103, Khata No. 483 situated in village – Barail, Police Station – Babubarhi, District – Madhubani.

It is submitted by learned counsel for the petitioner that the land in question is recorded in the khatiyan as Gairmajarua Aam but the same has been encroached upon by respondent nos. 6 to 16. The petitioner and other villagers represented on 16.11.2016, as contained in Annexure-3, before the Circle Officer, Babubarhi, Respondent No. 5 for getting the encroachment removed. Thereafter, on 06.12.2016, similar representation was made before the Sub-divisional Officer, Madhubani, Respondent No. 2, as contained in Annexure-4 but, since, no action was taken then again on 07.12.2016, representation was submitted before the Circle Officer, Babubarhi, Respondent No. 5, but, till date, neither any encroachment proceeding has been initiated nor encroachment has been removed. Hence, the present writ application.

Learned AC to AAG-12 submits that, at present, he



has no instruction with regard to initiation of proceeding.

Considering the nature of prayer made by the petitioner and in view of order this Court intends to pass it is not necessary to issue notice to private respondent nos. 6 to 16.

Considering the rival submissions of the parties, a proceeding under Section 3 of the Bihar Public Land Encroachment Act (hereinafter called as the 'Act') can be initiated, by the Collector under the Act, on an application made by any person or upon information received from any sources that any person has made or is responsible for continuation of any encroachment upon any public land. In the present case, the representations were submitted before the Circle Officer, Babubarhi as well as before the Sub-divisional Officer, Madhubani on 16.11.2016, 06.12.2016 and 07.12.2016 but there is nothing on record to suggest that any action has been taken in pursuance to the aforesaid representations.

In the circumstances, it is expected from Respondent No. 5, Circle Officer, Babubahri to dispose of the representation of the petitioner within a period of four weeks and if, he comes to a conclusion that the public road/land has been encroached upon, then it will be imperative on his part to initiate a proceeding under Bihar Public Land Encroachment Act forthwith and further to take to its logical conclusion within a period of four months, after giving notice



and opportunity of hearing to all affected persons in accordance with the provisions of the Act.

Accordingly, this writ application is disposed of.

(Dinesh Kumar Singh, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.07.2017
Transmission Date	NA

