

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15690 of 2017

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Shiv Narayan Singh, Son of Late Ram Chandra Singh, Resident of Village-Sakhnauli, Police Station-Awtarnagar, District-Saran, Bihar

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department, of Revenue and Land Reform, Govt. of Bihar, patna
2. The Principal Secretary, Department of Revenue and Land Reform, Govt. of Bihar, Patna.
3. The District Magistrate, Saran at Chapra
4. The Additional Collector, Saran at Chapra
5. The Deputy Collector, Land Reforms, Sonapur, Saran at Chapra
6. The Circle Officer, Dariyapur Block, Saran at Chapra
7. The Superintending of Police, Saran at Chapra
8. The Officer In-charge of Awtarnagar Police Station, Saran at Chapra
9. Prabhunath Singh Son of Late Nagendra Singh
10. Aamod Kumar Singh, Son of Prabhunath Singh
11. Jitendra Kumar Singh, Son of Prabhunath Singh
12. Raju Kumar Singh, Son of Prabhunath Singh
13. Pintu Kumar Singh, Son of Prabhunath Singh From Sl. No. 9 to 13 are Resident of Village-Sakhnauli, Police Station-Awtarnagar, District-Saran, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar
For the Respondent/s : Mr. Rakesh Ranjan, AC to AAG12

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 21-11-2017 Heard learned counsels for the parties.

In view of the nature of order this Court intends to pass, this Court is neither inclined to adjourn the matter for filing counter affidavit nor to issue notice to respondent nos. 9 to 13.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the land appertaining to Plot No. 777 situated in Village Sakhnauli, Circle – Dariyapur, District – Saran which is



recorded in the revenue records as Gairmajarua Aam but the same has been encroached by respondent nos. 9 to 13.

It is submitted by learned counsel for the petitioner that the land is recorded in revenue records as Gairmajarua Aam which gets reflected from the copy of the Khatiyan brought on record as Annexure P-1. For removal of said encroachment, the petitioner submitted an application on 20.3.2014, as contained in Annexure 2, before the respondent no.6, the Circle Officer, Dariyapur. Thereafter, on the order of respondent no. 6, the Circle officer, Dariyapur, Circle Amin submitted a report dated 28.3.2014, as contained in Annexure 3. However, the report, as contained in Annexure 3, does not suggest the nature of land or any kind of encroachment thereon. The respondent no. 6, however, vide letter no. 6 dated 29.3.2014 requested the Officer Incharge, Awtarnagar Police Station to take action in the matter. Consequently, the S.I. of Police reported vide Memo no. 618 dated 2.4.2014, as contained in Annexure 5, that a boundary wall has been erected by respondent no. 9 and there is a tree on the land in question, branches of which have been cut by respondent no. 9. When no action was taken by the respondent no. 6, the petitioner filed a representation on 18.9.2017 before the respondent no. 3, District



Magistrate, Saran. The respondent no. 4, Additional Collector, Saran sought a report from the DCLR, Sonapur but neither the encroachment proceeding has been initiated nor the encroachment has been removed. Hence, the present writ application.

Learned counsel for the official respondents submits that at present, he is not having any instruction whether the encroachment has been removed or not.

For initiating a proceeding under the Bihar Public Land Encroachment Act (hereinafter referred to as the 'Act'), it should appear to the Collector under the Act from an application made by any person or upon the information received from any source that any person has made or is responsible for the continuation of encroachment upon any public land.

No doubt, in the present case, representation has been submitted not only before the respondent no.6, the Circle Officer, Dariyapur on 20.3.2014 but also before the respondent no. 3, the District Magistrate, Saran, but there is nothing on record to suggest that any action has been taken in pursuance to the said representations.

In the circumstances, the respondent no. 6, the Circle Officer, Dariyapur is expected to examine the issue and if



need be, make spot verification and on doing so, if it appears to him that the public land has been encroached upon, then he will initiate the proceeding under the Act within two weeks of the receipt/production of a copy of this order and will take such proceedings to its logical end within a period of three months thereafter, after giving due opportunity of hearing to all affected persons in accordance with the provisions of the Act.

This writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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