

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15798 of 2017

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Shyam Sundar Yadav, Son of Chamari Prasad, Resident of village- Sikandarpur, Tola- Mewabazar, Police Station- Shakurabad, District- Jehanabad, At Present resident of Mohalla- Mallahchak More, P.O. , P.S. and District- Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Jehanabad.
2. The Superintendent of Police, Jehanabad.
3. The Sub Divisional Officer, Jehanabad.
4. The Officer-in-Charge, Town Police Station- Jehanabad.
5. Ranjeet Kumar Son of Baldeo Sao
6. Anil Kumar
7. Sunil Kumar, Both Sons of Gauri Sao
8. Ajay Kumar Son of Ramnath Sao Respondent Nos. 5 to 8 are resident of Mohalla- Mallahchak More, P.O. and P.S. District- Jehanabad.
9. Circle Officer, Sadar, Jehanabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No-2

For the Respondent/s : Mrs. Babita Kumar, AC to SC-1

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

02/ 17-11-2017

Learned counsel for the petitioner is permitted to implead Circle Officer, Sadar, Jehanabad as respondent no. 9.

Heard Mr. Manish Kumar No. 2, learned counsel for the petitioner and Mrs. Babita Kumari, learned AC to SC-1.

In view of the nature of order this Court intends to pass, this Court is neither inclined to adjourn the matter any further for allowing the counsel for the official respondents to file counter affidavit or to issue notice to private respondent nos. 5 to



8.

The present Writ application has been filed for a direction to the respondent authorities to remove the encroachment from the land appertaining to Plot Nos. 911 and 912, Revenue Thana No. 392 situated under the Municipal Circle, Jehanabad and the same is recorded in the Khatiyana as Gairmazarua Aam to be specified as Alagana Payin (water channel) upon which private respondent nos. 5 to 8 are constructing their houses.

It is submitted by learned counsel for the petitioner that the land in question is recorded as Gairmazarua Aam land (Payin) and is being used by public at large, which gets reflected from the Khatiyana, as contained in Annexure-1. Since August, 2017, the private respondent nos. 5 to 8 are making construction on the land, as a result the petitioner submitted an application before respondent no. 3, Sub-divisional Magistrate, Jehanabad on 31.08.2017, as contained in Annexure-2 and consequently vide order dated 12.09.2017 the Sub-divisional Magistrate, Jehanabad issued notice to private respondent nos. 5 to 8 but they failed to appear and file show cause. However, on the application of the petitioner, Case No. 1299 of 2017 has already been initiated but the private respondent nos. 5 to 8 are



deliberately not appearing before the Sub-divisional Magistrate, Jehanabad and they are going ahead with the construction.

Mrs. Babita Kumar, learned AC to SC-1 submits that she is not in a position to say whether any proceeding under Bihar Public Land Encroachment Act, 1956 has been initiated or not or whether the land in question is a public land or not.

Considering the rival submissions of the parties, this Court is of the view that for initiating a proceeding under Bihar Public Land Encroachment Act, 1956 (hereinafter called as the 'Act), Section 3 of the Act stipulates that the same will be initiated, if it appears to the Collector under the Act from an application made by any person or upon information received from any sources, that any person has made or is responsible for encroachment upon any public land.

In the circumstances, the petitioner is given liberty to submit an application giving details with supporting documents including the khatian before respondent no. 9, Circle Officer, Sadar, Jehanabad within a period of three weeks from the date of receipt of a copy of this order, upon which the respondent no. 9, Circle Officer, Sadar, Jehanabad will examine the revenue records and if need be, will make spot verification and if it appears



to him that the encroachment has been made on a public land then he will initiate a proceeding under the Act forthwith, if it has not been initiated and will take the same to its logical conclusion within a period of three months thereafter, after giving due notice to all the affected persons including private respondent nos. 5 to 8 in accordance with the provisions of the Act.

Accordingly, this Writ application is disposed of.

(Dinesh Kumar Singh, J)

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