

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24353 of 2013

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Arjun Rai, Son of Late Halkhari Rai, Resident of Village- Rajapur, P.S.
Rajapur, District- Buxar

.... Petitioner/s

Versus

1. The State of Bihar
2. Principal Secretary, Revenue & Land Reforms Department, Govt. of Bihar, Patna
3. District Magistrate-Cum-Collector, Buxar
4. S.D.O. Buxar
5. Anchal Adhikari, Chausa, P.S. Chausa, District- Buxar
6. Kavindra Rajbhar Son of Barsati Rajbhar, Resident of Village- Rajapur, P.S. Rajapur, District- Buxar
7. Dharamdeo Rajbhar, S/o Late Damri Rajbhar, Resident of Village- Rajapur, P.S. Rajapur, District- Buxar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar, Adv.

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 23-06-2017 Heard learned counsel appearing on behalf of the petitioner and learned AAG-10 appearing on behalf of Respondent Nos. 1 to 5.

In view of the relief prayed for and the nature of order this Court intends to pass, there is no need of issuing notice to the private respondents.

The writ application has been filed for a direction to respondent authorities to get the encroachment removed made by Respondent Nos. 6 and 7, over Plot No.722/985, Khata No. 158, situated in village-Rajapur, P.S.- C.O.-Chausa, in the District of



Buxar, which is used by the petitioner and others as a public road.

Learned counsel for the petitioner submits that Encroachment Case No.08/2007-08 was initiated for removal of the encroachment from the land in question wherein Respondent No.5, the Circle Officer, Chausa, called for a report from the Halka Karamchari and directed the Circle Amin for measurement of the land in question. Ultimately, Respondent No.5, vide order dated 24/05/2008, found that the road in question has been encroached by Respondent Nos. 6 and 7, hence, directed them to remove the encroachment, but the encroachment has not been removed.

A counter affidavit has been filed on behalf of respondent nos. 3 to 5, wherein, it is stated that the final order has been passed in Encroachment Case No.08/2007-08 and the encroachment has been removed on 15.07.2010 in presence of the petitioner and public in general. Respondent No.5, the Circle Officer, Chausa, and the petitioner were present and the petitioner had put his signature on the document prepared on the spot, relating to removal of the encroachment. Statement to that effect has been made in paragraph nos. 10 to 15 of the counter affidavit.

Learned counsel for the petitioner does not controvert the contention made in the counter affidavit. However, he submits



that the encroachment has resurfaced after removal of the encroachment, but there is no such pleading in the writ application.

Having perused the record, this Court is of the opinion that the writ application as well as counter affidavit have been drafted casually as the final order passed in the Encroachment Case No. 08/2007-08 has neither been brought on record by the petitioner nor by the respondent State. From the order dated 30/07/2011 and 12/09/2011, passed by Respondent No.5, the Circle Officer, Chausa, it appears that initially encroachment was removed on 15/07/2017 and thereafter the encroachment again resurfaced. It further suggests that proceeding is still pending, hence, it is expected from the Respondent No.5 to take the proceeding to its logical conclusion in accordance with the provisions of the Bihar Public Land Encroachment Act (hereinafter called as the 'Act') within a period of three months.

But, at the same time, it is made clear that the authorities under the Act are not only supposed to initiate encroachment proceeding and remove the encroachment from the public land / road but they, particularly, the S.H.O. of the local police station, are also required to ensure that the encroachment does not resurface, otherwise it will be a perpetual



phenomenon of initiating encroachment proceeding one after the other.

Accordingly, the writ application is disposed of.

(Dinesh Kumar Singh, J)

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