

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12088 of 2017

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Rupesh Kumar S/o - Ram Shakal Mehta, Resident of Village-Simra (Tola-Haraiharpur), P.S.-Pear, Distt. Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Muzaffarpur
2. The District Magistrate, Muzaffarpur
3. The Sub-Divisional Officer (East Muzaffarpur), Dist-Muzaffarpur.
4. The Circle Officer, Bandra, P.S.-Piar, Dist-Muzaffarpur
5. Jagannath Chaudhary, S/o Late Darbeshwar Chaudhary
6. Bishwanath Chaudhary, S/o Late Darbeshwar Chaudhary
7. Shiv Nath Chaudhary, S/o Late Darbeshwar Chaudhary, Respondent No.-5 to 7 Resident of Village-Simra (Tola-Haraiharpur), P.S.-pear, Dist- Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mahendra Thakur, Advocate
For the State-Respondent/s : Mr. Rishi Raj Sinha, SC-19
Mr. Birendra Prasad, AC to SC-19

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 05-12-2017

Heard Mr. Mahendra Thakur, learned counsel

for the petitioner and Mr. Birendra Prasad, learned AC to SC-19.

The present Writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the public road known as Madhaiya Chowk to Simra Chowk Road situated in Village – Simra, P.S. – Pear, District – Muzaffarpur.

In view of the nature of order this Court intends to pass, there is no need for adjourning the matter any



further for issuance of notice to respondent nos. 5 to 7.

It is submitted by learned counsel for the petitioner that the land in question is a public road appertaining to new Plot No. 2595 corresponding to old Plot Nos. 3866, 4143 and 4147, which is known as Madhaiya Chowk to Simra Chowk Road and adjacent to the public road, the land of the private respondents appertaining to new Plot No. 2576 corresponding to old Plot Nos. 4144 and 4145 is recorded in the name of father of private respondents, and they have encroached upon the public road. In the year, 2009 respondent no. 4, Circle Officer, Bandra directed the Anchal Amin for measurement of the public road in question. Thereafter, Anchal Amin submitted the report on 02.04.2009, as contained in Annexure-P/2 to the supplementary affidavit when it is specifically submitted that the father of private respondent nos. 5 to 7 encroached upon the public road. Due to such encroachment, the public at large are facing difficulties but in spite of the representation made by the petitioner on 24.03.2017 before respondent no. 4, Circle Officer, Bandra, as contained in Annexure-P/1, neither any encroachment proceeding under Bihar Public Land Encroachment Act (hereinafter referred to as the 'Act,) has been initiated nor the encroachment has been removed. Hence, the present Writ application.



It is submitted by learned counsel for the State-respondents that, at present, he is not having any instruction whether the land in question is public land or whether any proceeding has been initiated for removal of the encroachment under the provisions of the Act, but he further submits that if any encroachment has been made on a public land then the same will be removed in accordance with the provisions of the Act within a stipulated time frame.

Considering the rival submissions of the parties, for initiating a proceeding under Section 3 of the Bihar Public Land Encroachment Act, 1956, the only pre-condition 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 encroachment upon any public land. In the present case, it appears that the Circle Officer came to know from the representation made by the petitioner on 24.03.2017, as contained in Annexure-P/1, and from the report of the Anchal Amin dated 02.04.2009, as contained in Annexure-P/2, that some encroachment has been made, but there is nothing on record to suggest that any proceeding has been initiated under the Act or the encroachment has been removed.

In the circumstances, this Court directs



respondent no. 4, Circle Officer, Bandra to examine the revenue records and if need be, make spot verification, whereafter if it appears to him that the public land has been encroached upon then he will initiate a proceeding under the Act forthwith, if it has already not been initiated and take it to its logical conclusion within a period of three months, after giving due opportunity to all the affected persons including private respondent nos. 5 to 7.

Accordingly, this Writ application is disposed of.

(Dinesh Kumar Singh, J)

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