

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13094 of 2017

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Jai Prakash Choudhary S/o Raghunath Choudhary Resident of Village- Semri
Dev @ Semri , P.S.- Karaghar, Distt.- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue Department, Bihar, Patna.
2. The District Magistrate, District- Rohtas at Sasaram.
3. The Deputy Collector and Reform, Sasaram, Rohtas.
4. The Circle Officer, Karaghar, Anchal, Distt. Rohtas.
5. Bharath Baitha
6. Shatrudhan Baitha
7. Deonath Baitha All Sons of Bikau Baitha Resident of Village- Semri Dev @ Semri , P.S.- Karaghar, Distt.- Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Santosh Kumar
For the Respondent/s : Mrs. Prakritita Sharma, AC to SC 25

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 30-11-2017 Heard learned counsels for the parties.

The nature of order this court intends to pass, does not require
issuance of notice to respondent nos. 5 to 7.

The present writ application has been filed for a direction to the
respondent authorities to remove the encroachment over the land
appertaining to R.S. Khata No. 282, R.S. Plot Nos. 596 and 597,
situated in Village – Semrideo urf Semri, P.S. Kargahar, District
Rohtas.

Learned counsel for the petitioner submits that the land in
question is a public land which is being used as drainage and public
road but the same has been encroached upon by the private



respondents and others.

The petitioner transmitted a public representation through registered post to the respondent no. 2, the District Magistrate, Rohtas on 5.5.2017 and a copy of the same was transmitted to the respondent no. 4, the Circle Officer, Kargahar, as contained in Annexure 1 and 2. Thereafter, the petitioner submitted a joint application dated 7.7.2017, as contained in Annexure 3 before the respondent no. 2, the District Magistrate, Rohtas but till date neither the encroachment proceeding has been initiated nor the encroachment has been removed. Hence, the present writ application.

Mrs. Sharma, learned counsel for the official respondents submits that at present she is not in a position to submit that the land in question is a public land or whether any proceeding under the Bihar Public Land Encroachment Act (hereinafter referred to as the Act) has been initiated.

For initiating an encroachment proceeding, Section 3 of the Act stipulates that 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, a joint representation was filed



before the respondent authorities including the respondent no.2, the District, Magistrate, Rohtas on 5.5.2017, as contained in Annexure 1, as well as respondent no. 4, the Circle Officer, Kargahar but there is nothing on record to suggest that any action has been taken.

In the circumstances, the petitioner is given liberty to submit a fresh representation before the respondent no. 4, the Circle Officer, Kargahar within a period of three weeks from the date of receipt/production of a copy of this order with a prayer for removal of encroachment from the land in question and it is expected from the respondent no. 4, the Circle Officer, Kargahar to examine the revenue records and if need be make the spot verification whereupon if it appears to him that the public land has been encroached upon, then he will initiate a proceeding under the Act forthwith and will take the same 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. It is made clear that this Court has not expressed any opinion upon the nature of the land in question.

This writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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