

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11748 of 2018

=====

Munna Kumar, Son of Rajendra Prasad, Resident of Village- Sulemanpur,
P.O.- Kazisarai, P.S.- Kako, District- Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Development Department, Govt. of Bihar, Patna.
2. The District Magistrate, Jehanabad at Jehanabad.
3. The Superintendent of Police, Jehanabad at Jehanabad.
4. The Sub-Divisional Officer, Jehanabad, Jehanabad.
5. The Circle Officer, Kako, Block- Kako, District- Jehanabad.
6. The S.H.O. Kako, District- Jehanabad.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ashutosh Singh
For the Respondent/s : Mr. Vikash Kumar- Sc11

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 05-07-2018

Heard Mr. Ashutosh Singh, learned counsel for the petitioner and Mr. Rewati Kant Raman, learned AC to SC-11 for the respondent-Sate.

Though, the present writ application was registered on 25.06.2018, but in view of the nature of order this Court intends to pass, this Court is not inclined to adjourn the matter any further.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the land, appertaining to New Khata No. 171, Old Khata No. 148, New Plot No. 825, Old Plot No. 416, New Plot No. 835, Old Plot No. 460, New Plot No. 881, Old Plot No. 448, New Khata No. 171, Old Khata No. 267, New Plot No. 918, Old Plot



No. 509, situated in Village Sulemanpur, P.S., Kako, District Jehanabad, which is basically a ditch and used for water harvesting, as well as for drainage of waste water.

It is submitted by learned counsel for the petitioner that the land in question is a ditch and recorded in the Khatiyan as 'Anabad Sarv Sadharan', which is being used for drainage of waste water by the villagers at large, but recently it has been encroached upon by several persons. The local authorities were requested for removal of the encroachment, but no action has been taken till date. For removal of encroachment, representation was also submitted before Respondent No.2, the District Magistrate, Jehanabad on 18.07.2017, as contained in Annexure-3, a copy of which has also been transmitted to Respondent No. 5, the Circle Officer, Kako, but till date no action has been taken for removal of the encroachment from the land in question. The petitioner had also made a complaint before District Public Grievance Redressal Officer, Jehanabd, when the District Public Grievance Redressal Officer, Jehenabad, vide order dated 14.10.2017 directed Respondent No.5, the Circle Officer, Kako to get the encroachment removed by initiating a proceeding under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act'), but even then no action has been taken for removal of



the encroachment from the land in question, in spite of the fact that Circle Officer admitted the encroachment over the land in question, before the District Public Grievance Redressal Authority. Representation was also submitted before the Sub-Divisional Officer, as well as the District Magistrate, Jehanabad on 18.10.2017, as contained in Annexure-5, but no action has been taken for removal of the encroachment from the land in question. Hence, the present writ application.

Learned AC to SC 11 submits that at present, he is not having any instruction whether the land in question is a public land or not, or whether the same has been encroached upon or not, but if the public land has been encroached upon then a proper proceeding under the Act will be initiated and such proceeding will be taken to its logical conclusion within a time frame.

Having heard the learned counsel for the parties, this Court is of the view that for initiating a proceeding under Section 3 of the Act, the only pre-condition is that it should appear to the Collector under the Act from an application made by any persons or upon information received from any sources that any person has made or is responsible for the continuance of any encroachment upon any public land.



In the present case, representation was submitted before Respondent No.2, the District Magistrate, Jehanabad, and copy of the same was transmitted to Respondent No.5, the Circle Officer, Kako and thereafter Respondent No.5, the Circle Officer, Kako appeared before Respondent No.2, the District Magistrate, Jehanabad in a proceeding under the Bihar Public Grievance Redressal Act where he admitted the encroachment over the land in question, but there is nothing on record to suggest that any proceeding has been initiated for removal of the encroachment from the land in question.

The state of affairs reflects the abdication of jurisdiction by Respondent No.5, the Circle Officer, Kako.

In the circumstances, it is expected from Respondent No.5, the Circle Officer, Kako to examine the revenue records and if need be, conduct spot verification and get the land in question measured, whereupon, if it appears to him that the land in question is a public land and the same has been encroached upon, then he will initiate a proceeding under the Act forthwith, if the same has already not been initiated, and will take such proceeding to its logical conclusion within a period of four months from its initiation after giving due opportunity of hearing to all affected



persons including the petitioner, in accordance with the provisions of the Act.

Accordingly, with the above observation and direction, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	09.07.2018
Transmission Date	

