

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17620 of 2017

Abhay Kumar Sinha, son of Late Bhuneshwari Sharan, resident of Village- Hariharpur, P.S.- Khaira, District- Saran at Chapra. At present residing at Mohalla- Mirchaiya Tola, East of Maharanni Asthan, P.S.- Bhagwan Bazar, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner, Saran Division, Saran.
2. The District Magistrate, Saran at Chapra.
3. The Circle Officer, Nagra, Saran.

... .. Respondent/s

Appearance :

For the Petitioner/s : None
For the Respondent/s : Mr. RAJ KISHORE ROY -GP18

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 13-02-2018 None appears for the petitioner. However, Mr. Raj Kishore Roy, learned GP 18 appears for respondent nos. 1 to 3.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed after initiating appropriate encroachment proceeding, from the land appertaining to Plot No. 341, Thana No. 247, Khata No. 214, situated in Village – Hariharpur, Circle – Nagra, P.S. - Khaira, District – Saran, which is a public road and recorded in revenue records as Gairmajarua Aam.

From the pleadings, it appears that the land in question is a public road and recorded in revenue records as ‘Gairmajarua Aam’. On 16.8.2016, the petitioner submitted an application before the respondent no. 3, Circle Officer, Nagra, as contained in



Annexure 1, for getting the encroachment removed from the public road. A public petition, as contained in Annexure 2, was also submitted on 16.8.2016 itself before the Circle Officer, Nagra. Subsequently, the petitioner submitted another application on before the respondent no. 3, Circle Officer, Nagra by way of reminder 29.11.2016, as contained in Annexure 3 but instead of initiating encroachment proceeding, a Demarcation Case No. 17 of 2016-17 was initiated. The petitioner was directed to deposit cost of demarcation to the tune of Rs.800/-. Thereafter, the Circle Amin submitted a report, as contained in Annexure 10 to the Circle Officer to the effect that Prabhunath Prasad, Bishwanath Prasad, Ramnath Prasad and the petitioner Abhay Kumar Sinha have made encroachment on the land in question. The said report suggests that the petitioner put a hutment on the land in question and subsequently, the Circle Officer, Nagra vide letter no. 225 dated 24.6.2017, as contained in Annexure 11, issued notice to all the four persons including the petitioner for removing encroachment from the land in question within a period of one week. However, statement has been made by the petitioner in paragraph 20 of the writ application that after receiving notice dated 24.6.2017, as contained in Annexure 11, the hutment has been removed from the land in question. Paragraph 20 of the



writ application reads as follows:

“20. That from perusal of the aforesaid inquiry report contained in Annexure – 10 it would be evident that the petitioner has also been found to have made encroachment over the village road bearing Khesra No.341 by fixing a hutment of straw but here it would be pertinent to make clear that the hutment of straw of the petitioner fixed over the said land has already been removed by the petitioner after the notice duly served vide letter no.225 dated 24.06.2017 issued by the Circle Officer, Nagra, Saran, upon the petitioner for getting removed the encroachment made on behalf of the petitioner over the land bearing Khesra No.341. Photo copy of letter no.225 dated 24.6.2017 is annexed herewith and marked as Annexure – 11 for identification forming part to the petition.”

Mr. Raj Kishore Roy, learned GP 18 submits that notices have been issued to all the encroachers, as gets reflected from the notice dated 24.6.2017, as contained in Annexure 11.

Having heard learned GP 18, it appears from the records that this fact came to knowledge of the respondent no. 3, Circle Officer, Nagra from the report of the Circle Amin submitted in Demarcation Case No. 17 of 2016-17 that the public road has been encroached upon but there is nothing on record to suggest



that any proceeding under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as the 'Act') has been initiated till date.

For initiating a proceeding under the Act, 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.

Hence, respondent no. 3, the Circle Officer, Nagra is directed to examine the issue and if need be, conduct spot verification and on doing so, if it appears to him that the public land has been encroached upon, then he will initiate the proceeding under the Act forthwith and will take such proceedings to its logical conclusion 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.

This writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

anil/-

U			
---	--	--	--

