

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12248 of 2017

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Kapildeo Singh aged about 70 years, Son of Late Gauri Charan Singh @ Ram Charan Das, R/o Village- Uddaini, P.S.- Gopalpur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Patna.
2. The District Magistrate, Patna.
3. The Superintendent of Police, Patna.
4. The D.C.L.R., Patna Sadar, Patna.
5. The Circle Officer, Sampatchak, Patna.
6. Shyam Narayan Singh, Son of Late Ramdin Singh,
7. Pancham Singh, Son of Late Khelawan Singh,
8. Jitendra Kumar @ Budha, Son of Sri Pancham Singh,
9. Chhaggu Singh, Son of Late Khelawan Singh,
10. Appu Kumar, Son of Sri Chhagu Singh,
11. Ram Pravesh Singh, Son of Late Ram Ekbal Singh,
12. Guddu Kumar @ Nawal Kumar, Son of Sri Ram Pravesh Singh, All resident of Village- Uddaini, P.S.- Gopalpur, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vivek Anand Amritesh
For the Respondent/s	:	Mrs. Sanghmitra Ghosh, AC to GP 15

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 13-07-2018

Heard learned counsels for the parties.

In view of the nature of order this Court intends to pass, this Court is neither inclined to issue notice to private Respondent Nos. 6 to 12 nor to adjourn the matter to file counter affidavit.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the public land appertaining to P.S. No.102, Tauzi No. 396, Khata No. 50, Survey Plot Nos. 340 and 341.



It is submitted by learned counsel for the petitioner that the land in question is recorded as 'Aam Gairmajarua land' in the revenue records and there is road on the said land, which is being used by the public at large but the same has been encroached by respondent nos. 6 to 12, as a result, the road has been blocked. It is further submitted that on the application of one Arvind Kumar Yadav, with regard to the removal of encroachment from the said land, Encroachment Case No. 9 of 1987-88 was initiated but it has not been taken to its logical conclusion nor there is any document available on record suggesting disposal of the aforesaid encroachment case. However, DCLR, Patna Sadar, vide letter no. 346 dated 15.2.2016 directed the Respondent No. 5, Circle Officer, Sampatchak to get the encroachment removed from the land in question.

AC to G.P. 15 submits that at present, she is not having any instruction in the matter. She is also not aware of the fact that Encroachment Case No. 9 of 1987-88 was initiated with regard to removal of encroachment from the land in question or whether it is still pending or has been concluded.

Considering the rival submissions of the parties, this Court is of the view that *sine qua non* for initiating a



proceeding under Section 3 of the Bihar Public land Encroachment Act (hereinafter referred to as the 'Act') is 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.

It appears that the petitioner transmitted a representation dated 1.12.2016 before the Respondent nos.2,4 and 5 through registered post, but there is nothing on record to suggest that any appropriate proceeding has been initiated or if initiated, taken to its logical conclusion though there is reference of Encroachment Case No. 9 of 1987-88 in the letter no. 346 dated 15.2.2016 of Respondent No. 4, DCLR, Patna Sadar, whereby he directed the Respondent no. 5, Circle Officer, Sampatchak to get the encroachment removed forthwith. However, the letter, as contained in Annexure 2, does not depict the description of the land in question, so it is difficult to correlate that the aforementioned Encroachment Case No. 9 of 1987-88 relates to the present land in question or not.

In the circumstances, the Respondent no. 5, the Circle Officer, Sampatchak is expected to examine the revenue records with regard to the land in question and if need be, make



spot verification and on doing so, if it appears to him that the public land has been encroached upon, then he will initiate a proceeding under the Act if it has already not been initiated, within two weeks of the receipt/production of a copy of this order and will take such proceedings to its logical end within a period of three months thereafter, after giving due opportunity of hearing to all affected persons including the petitioner and Respondent nos. 6 to 12 in accordance with the provisions of the Act.

Since the issue is pending since last two decades, it is expected from the Respondent No.5 to strictly adhere to the time schedule. Respondent No. 2, the District Magistrate, Patna is also expected to see that the order of this Court is complied with within the aforementioned stipulated time frame.

This writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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