

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.989 of 2017

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Murari Singh, Son of Late Ganesh Prasad Singh, Resident of Village + P.O. Manjhaul-02, Kachahari Tola, P.S. Cheria Bariyarpur, Block and Circle-Manjhaul, District-Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department, of Revenue and Land Reforms, Govt. of Bihar, Patna
2. The District Magistrate-cum-Collector, Begusarai.
3. The Sub-Divisional Officer, Manjhaul Sub Division, Manjhaul, District-Begusarai
4. The Circle Officer, Circle-Manjhaul, District-Begusarai.
5. Sitaram Singh Son of Late Charitra Singh R/o Village- Manjhaul, P.S. Cheria Bariyarpur, Ward no. 2, District-begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bishwa Nath Chaudhary, Adv.
For the Respondent/s : Mr. RAJ KISHORE ROY-GP-18

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 27-03-2018

Heard learned Counsels for the petitioner and the respondent-State.

The present Writ application has been filed for a direction to the respondent authorities, particularly, respondent no.4, the Circle Officer, Manjhaul to get the encroachment removed from the premises of Revenue Gram Kutchehary, Manjhaul, appertaining to Plot Nos.4775 and 4576, Khata



No.523, Thana No.191, situated at Village -Manjhaul, Circle –
Manjhaul, P.S.- Cheria Bariyarpur, District -Begusarai,

Since the Writ application was registered on 21.01.2017, but no counter affidavit has been filed till date and in view of the nature of order this Court intends to pass, this Court is neither inclined to adjourn the matter any further, nor inclined to issue notice to private respondent no.5.

It is submitted by learned Counsel for the petitioner that the petitioner submitted a petition on 19.08.2013, before the respondent no.3, the Sub-Divisional Officer, Manjhaul, as contained in Annexure-1 for getting the encroachment removed from the premises of Revenue Gram Kutchehary, Manjhaul. Thereafter, on 27.08.2015 and 28.08.2015, petitions were submitted to the respondent no.2, the District Magistrate-cum-Collector, Begusarai and the Sub-Divisional Officer, as contained in Annexure-2 series. When no action was taken on such petitions, the petitioner filed an application before the respondent no.5, the Sub-Divisional Public Grievance Redressal Officer, on 16.08.2016, as contained in Annexure-3. Whereupon, the Sub-Divisional Public Grievance Redressal Officer, vide order dated 18.02.2018, passed in Case No.52051-00436, directed the Circle Officer to get the encroachment



removed from the land in question through the process of law as prescribed under the provisions of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act'), as contained in Annexure-4. Despite the above, when no action was taken, then a representation was submitted before the respondent no.2, the District Magistrate, Begusarai, on 02.12.2016, as contained in Annexure-5, but till date no action has been taken. Hence, the present Writ application.

It is submitted by Mr. Raj Kishore Rai, learned GP-18, that at present, he is not having any instruction whether the land in question is a public land/road or not, but if it is a public land/road and the same has been encroached upon, then a proper proceeding under the provisions of the Act will be initiated forthwith, if it has not been initiated and the same will be taken to its logical conclusion within a time frame.

Having heard learned Counsels for the parties, the sine qua non for initiating a proceeding for removal of encroachment is prescribed under Section 3 of the Act which stipulates that if it appears to the Collector under the Act from an application made by any person 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, he will initiate a



proceeding under the Act.

No doubt, the public petition was submitted before the Circle Officer as far as back on 19.08.2013, as gets reflected from Annexure-1 and thereafter in 2015 and 2016, before the the District Magistrate, Begusarai and the Sub-Divisional Officer, Manjhaul, but there is nothing on record to suggest that any proceeding has been initiated till date or any effort has been taken to come to the finding whether the land in question is a public land. The inaction of the respondent authorities, particularly, that of respondent no.4, the Circle Officer, Manjhaul, amounts to complete abdication of *quasi judicial* functions, vested in this officer.

In the circumstances, the respondent no.4, Circle Officer, Manjhaul is directed to examine the revenue records and if need be make spot verification and if it appears to him that public road/land has been encroached upon, then he will initiate a proceeding forthwith with regard to the land in question in accordance with the provisions of Act, if it has not already been initiated and take such proceeding to its logical conclusion within a period of three months, by giving due opportunity of hearing to all affected persons including respondent no.5 under the provisions of the Act.



The Writ application is, accordingly, disposed of with
the observation aforesaid.

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

