

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10321 of 2017

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Geeta Devi, Wife of Late Balistar Singh, Resident of Village- Harnahiya Tola Semri, Police Station- Sathi, Block- Narkatiaganj, District- West Champaran.

... .. Petitioner

Versus

1. The State of Bihar through its Principal Secretary, Rural Works Department, Government of Bihar, Patna. null null
2. The District Magistrate, Bettiah, District West Champaran at Bettiah. null null
3. The Sub- Divisional Public Grievance Redressal Officer, Narkatiaganj, District- West Champaran at Bettiah.
4. The Circle Officer, Narkatiganj, District- West Champaran at Bettiah.
5. The Officer-in- Charge, Sathi Police Station, District- West Champaran at Bettiah.
6. Yadolal Thakur, Son of Late Yogi Thakur
7. Aasni Thakur, Son of Late Yogi Thakur
8. Ramesh Thakur, Son of Late Yogi Thakur
9. Raj Kumar Thakur, Son of Aasni Thakur
10. Vashisth Thakur, Son of Mahendra Thakur, Respondents No. 6 to 8 are Residents of Village- Harnahiya Tola Semri, Police Station- Sathi, Block- Narkatiaganj, District- West Champaran at Bettiah.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Raghunandan Kumar Singh, Adv.
For the Respondent/s : Mr. Pratik Kumar Sinha, AC to GA-V

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 31-01-2018

Heard Mr. Raghunandan Kumar Singh, learned counsel for the petitioner and Mr. Pratik Kumar Sinha, learned AC to GA-5 for the respondent authorities.

Since the present writ application has been registered on 21.07.2017, but till date no counter affidavit has been filed, hence, this Court is not inclined to adjourn the matter any further for filing counter affidavit.



In view of the nature of order this Court intends to pass, this Court is not inclined to issue notice to private respondent nos. 6 to 10.

The present writ application has been filed for a direction to the respondent authority to get the encroachment removed from the public land/road, appertaining to Khata No. 3, Plot No. 53, situated in Village Harnahiya Tola Semri, Block Narkatiaganj, District West Champaran at Bettiah, which has been encroached upon by private respondent nos. 6 to 10.

It is submitted by learned counsel for the petitioner that the petitioner purchased 6 Katha 10 Dhurs of land from his brother-in-law, Harendra Singh by registered sale deed dated 10.06.2008, appertaining to Khata No. 68 Plot No. 48, Khata No. 40, Plot No. 47, and at the eastern side of the part of the land of the petitioner, Plot No. 53 is situated which is Aam Rasta, but the same has been encroached upon by private respondent nos. 6 to 10, as a result of which, the ingress and egress of the petitioner from his raiyati land has been obstructed and the free flow of the traffic of the entire village has also been obstructed. For removal of the encroachment from the land in question, the petitioner submitted an application before respondent no.3, the Sub-Divisional Public Grievance Redressal Officer, Narkatiaganj on 12.06.2016, as contained in



Annexure-1. Subsequently, respondent no.4, the Circle Officer, Narkatiaganj vide letter dated 23.12.2016, as contained in Annexure-2, submitted a report to respondent no.3, the Sub-Divisional Public Grievance Redressal Officer, Narkatiaganj intimating that as per the report of the Revenue Karamchari, Yadolal Thakur has erected a hut on the Government land, but the road has not been obstructed and for removal of the hut, notice has been issued. Subsequently, respondent no.4, the Circle Officer, Narkatiaganj, vide letter no. 23 dated 14.01.2017, intimated to respondent no.3, the Sub-Divisional Public Grievance Redressal Officer, Narkatiaganj that cattle shed has been removed from the land/road in question and for further needful action, all the effected parties were directed to appear. Ultimately, respondent no.3, the Sub-Divisional Public Grievance Redressal Officer, Narkatiaganj, vide order 20.02.2017 passed in Case No. 50111-02197, as contained in Annexure-4, since, as per the report of the Circle Inspector, the public land has been encroached upon, hence directed respondent no.4, the Circle Officer, Narkatiaganj to remove the encroachment from the land in question in accordance with the provisions of Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act'), but till date, neither the encroachment has been removed nor any proceeding under the Act



has been initiated with regard to the encroachment. Hence, the present writ application.

Learned AC to GA-5 submits that at present, he is not having any instruction with regard to nature of encroachment or nature of land, but if the land in question is public land and the same has been encroached upon, then a proceeding under the Act will be initiated forthwith and the same will be taken to its logical conclusion within a time frame.

Having heard the learned counsels for the parties, this Court is of the view that for initiation of a proceeding under Section 3 of the Act, the only precondition is that it should appear 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 continuance of encroachment over any public land.

In the present case, it appears that in pursuance to an application filed before respondent no.3, the Sub-Divisional Public Grievance Redressal Officer, Narkatiaganj, respondent no.4, the Circle Officer, Narkatiaganj was asked to submit the report and in pursuance to that, he submitted the report on 23.12.2016 and 14.01.2017, as contained in Annexure-2 and 3, respectively, suggesting therein that there is encroachment on the public land,



but he failed to give description of the land in question, which suggests the mechanical manner in which he has submitted the report to his superior authorities. The order of respondent no.3, the Sub-Divisional Public Grievance Redressal Officer, Narkatiaganj dated 20.02.2017 reflects that after the report submitted by the Circle Inspector, respondent no.3, the Sub-Divisional Public Grievance Redressal Officer, Narkatiaganj came to finding that the public land/road has been encroached upon and he directed respondent no.4, the Circle Officer, Narkatiaganj to get the encroachment removed from the public land in question under the provisions of the Act, but there is nothing on record to suggest that any proceeding under the Act has been initiated till date.

In the circumstances, respondent no.4, the Circle Officer, Narkatiaganj is directed to examine the Revenue Records and if need be, conduct spot verification, 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 it has already not been initiated, and will take such proceeding to its logical conclusion within a period of four months of its initiation, after giving due opportunity of hearing to all affected persons including private respondent nos. 6 to 10, in accordance with the provisions of the Act.



Accordingly, with the above observations and directions, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	06.02.2018
Transmission Date	

