

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.87 of 2018

=====

Krishnadev Ram, Son of Bhaso Ram, Resident of Village-Mohanpur, P.S.-
Laxmipur, District-Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Rural Development Department, Bihar, Patna
3. The District Magistrate, Jamui.
4. The Sub-Divisional Officer, Jamui.
5. The Circle Officer, laxmipur, Jamui.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar Sinha
For the Respondent/s	:	Mr. HARISH KUMAR- GP8
		Mr. Sudhanshu Bhushan, AC to GP 8

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 13-02-2018 Heard learned counsels for the parties.

As prayed for, learned counsel for the petitioner is permitted to make necessary correction in paragraph 4 of the writ application.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the land appertaining to Thana No. 169, Tauzi No. 445, Khata No. 54, Plot Nos 690/860 and Plot No. 736, which is recorded as drainage in Khatian, as contained in Annexure 1.

It is submitted by learned counsel for the petitioner that on the land in question, there is drainage which is being used by the petitioner and public at large but the same has been encroached upon leading to substantial blockage of the drainage and creating public inconvenience. Though on an application filed by the



petitioner before respondent no.4, the S.D.O., Jamui, Case No. 535 of 2015 was registered for initiation of a proceeding under Section 144 of Code of Criminal Procedure, 1973. However, no effort has been made for removal of encroachment from the land in question.

A.C. to G.P. 8 submits that he is having no instruction in the matter but he submits that if there is an encroachment on the drainage then appropriate proceeding will be initiated under the Bihar Public Land Encroachment Act (hereinafter referred to as the 'Act') and the same will be taken to its logical conclusion within a time frame.

Considering the rival submissions of the parties, it appears that there is nothing on record to suggest that any application for initiating a proceeding under the Act was ever submitted by the petitioner or any other person before the respondent no. 5, Circle Officer, Laxmipur for removal of encroachment from the public drainage.

For initiating a proceeding under 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 the information received from any source that any person has made or is responsible for the continuation of encroachment upon any public land.



In the circumstances, the petitioner is given liberty to submit a representation before the respondent no. 5, Circle Officer, Laxmipur giving details of the encroachment over the public drainage in question along with relevant documents within a period of three weeks from the date of receipt/production of a copy of this order with a prayer for removal of encroachment from the land in question whereupon it is expected from the respondent no. 5, Circle Officer, Laxmipur to examine the revenue records and if need be, conduct spot verification and on doing so, if it appears to him that the public drainage has been encroached upon, then he will initiate the proceeding under the Act forthwith, if it has not been initiated, and will take such proceedings to its logical conclusion within a period of three months of its initiation, 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			
---	--	--	--

