

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.7842 of 2018**

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Umesh Chandra Tiwary, Son of Late Prayag Tiwary, Resident of Village/Mohallah- Anand Nagar, Ward No.27, Bettiah, P.S.- Bettiah Town, P.S.- Bettiah, District- West Champaran (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Development Department, Government of Bihar, Patna.
2. The District Magistrate, West Champaran at Bettiah (Bihar).
3. The Sub Divisional Officer, Bettiah, District- West Champaran (Bihar).
4. The Circle Officer, Bettiah, District- West Champaran (Bihar).
5. The Executive Officer, Nagar Parishad, Bettiah, District- West Champaran (Bihar).
6. Smt. Rita Devi, Wife of Sri Bhulian Thakur, Resident of Village/Mohallah- Anand Nagar, Ward No.27, Bettiah, P.S.- Bettiah Town, District- West Champaran (Bihar).

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Dhanendra Chaubey, Adv.  
For the Respondent/s : Mr. Saroj Kumar, AC to GP-8

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**

**ORAL JUDGMENT**

**Date : 01-05-2018**

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

In view of the nature of order this Court intends to pass, there is no need of issuance of notice to private respondent no.6, Smt. Rita Devi and adjourn the matter any further.

The present Writ application has been filed for a direction to the respondent authorities, particularly, respondent no.4, the Circle Officer, Bettiah to get the encroachment removed from the land, appertaining to Plot No.601, situated at



Ward No.27, District - Bettiah, which is a public road, but the same has been encroached upon by private respondent no.6.

It is submitted by learned counsel for the petitioner that the land in question is a public land which connects Ward No. 7, Mohalla-Anand Nagar in the District of Bettiah, but the same has been encroached upon by respondent no.6. The petitioner made a representation before the respondent no.4, the Circle Officer, Bettiah, and respondent no.5, the Executive Officer, Nagar Parishad, Bettiah on 10.06.2017, as contained in Annexure-1 for removal of encroachment from the land in question. In pursuance to the said representations, the respondent no.5, directed the Anchal Amin to get the measurement of the land made, whereupon, the Anchal Amin submitted the measurement report dated 16.06.2017, as contained in Annexure-2 to the Circle Officer, Bettiah, suggesting therein that encroachment has been made by respondent no.6 over the land in question. In view of the report of Anchal Amin, respondent no.5, the Executive Officer, Nagar Parishad, Bettiah, issued a notice to the respondent no.6 vide Letter No.959, dated 19.06.2017, as contained in Annexure-4, with a direction to remove the encroachment within a period of fifteen days, failing which action would be taken under the



Bihar Municipal Act, 2007, but the encroachment has not been removed. In the meantime, the Circle Officer, Bettiah also called for a report from the Anchal Amin, whereupon, the Anchal Amin submitted the report on 08.07.2017, as contained in Annexure-4, once again suggesting therein that the encroachment has been made by respondent no.6. Moreover, respondent no.5, vide Letter No.1074, dated 12.07.2017, as contained in Annexure-5 also requested the Circle Officer, Bettiha for removal of encroachment from the land in question, but the encroachment has not been removed. Ultimately, the petitioner transmitted representations through registered post to the respondent no.2, the District Magistrate, West Champaran and the respondent no.3, the Sub-Divisional Officer, Bettiah, on on 25.09.2017, as contained in Annexure-6 series, but till date the encroachment has not been removed from the land in question. Hence, the present writ application.

It is submitted, 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.

However, in the present case, it appears that representations were submitted as far back as 10.06.2017 to the respondent no.4, the Circle Officer, Bettiah, and respondent no.5, the Executive Officer, Nagar Parishad, Bettiah, as contained in Annexure-1 for removal of encroachment from the land in question and thereafter the Executive Officer requested the Circle Officer vide Letter No.1074 dated 12.07.2017 for removal of encroachment, but there is nothing on record to suggest that any proceeding has been initiated for removal of encroachment from the land in question till date.

In the circumstances, the respondent no.4, the Circle Officer, Bettiah is directed to examine the revenue records and if need be make spot verification or to get the land in question



measured, whereupon, if he finds 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.6 in accordance with the provisions of the Act.

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

**(Dinesh Kumar Singh, J)**

Ashwini/-

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