

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13427 of 2018

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Bimlesh Kumar, son of Mundrika Singh, resident of Village- Cheya, P.O.-
Riwala, P.S. Atri, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Commissioner, Magadh Range, Gaya.
3. The District Magistrate, Gaya.
4. The Sub- Divisional Officer, Atri, Gaya.
5. The Deputy Collector, Land Reforms, Atri, Gaya.
6. The Circle Officer, Block- Mohra, District- Gaya.
7. Niranjn Singh, son of Late Ram Sagar Singh, resident of Village- Cheya,
P.O.- Riwala, P.S. Atri, District- Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Singh, Adv.
For the Respondent/s : Mr. Subhash Chandra Yadav, GP-15

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 16-07-2018

Heard Mr. Ranjan Kumar Singh, learned counsel for the
petitioner and Mrs. Sangh Mitra Ghosh, learned AC to GP-15 for
the respondent-State.

In view of the nature of order, this Court intends to pass,
this Court is neither inclined to issue notice to private Respondent
No.7, Niranjn Singh, nor inclined to adjourn the matter any
further.

The present writ application has been filed for a
direction to the respondent authorities, particularly, Respondent
No.6, the Circle Officer, Mohra, to get the encroachment removed



from the public land/road, which connect Jethian to Pakri, appertaining to Thana No.265, Khata No.179, Plot Nos.1096 and 1236, situated at Village Cheya, Block Mohra, District Gaya.

It is submitted by learned counsel for the petitioner that the land in question is a public road and has been constructed under the Prime Minister Village Road Scheme, but the same has been encroached upon by the private Respondent No.7, Niranjn Singh.

For removal of the encroachment from the land in question, several public petitions were submitted to Respondent No.2, the Commissioner, Magadh Range, Gaya, Respondent No.3, District Magistrate, Gaya and Respondent No.6, the Circle Officer, Mohra, on 24.05.2012, as contained in Annexure-2 (series). Subsequently, Respondent No.6, the Circle Officer, Mohra, vide Letter No.449 dated 30.04.2013, as contained in Annexure-3, directed the Circle Amin, Circle Inspector and Revenue Karmchari for measuring the land/road in question. Consequently, Circle Amin, after measuring the said land submitted the report to the Circle Officer, Mohra, as contained in Annexure-4, to the effect that Private Respondent No.7, has encroached upon a part of the public road/land in question. Subsequently, a public petition was submitted to Respondent No.02, the Commissioner, Magadh



Range, Gaya, on 21.12.2017, as contained in Annexure-5, who directed the Respondent No.6, the Circle Officer, Mohra, to inspect the road in question and submit the report to that effect but even then neither any proceeding has been initiated nor the encroachment has been removed from the land in question, till date.

Respondent No.6, the Circle Officer, Mohra, vide Memo No.56, dated 19.01.2018, as contained in Annexure-6, requested the S.H.O., Atri, to be present along with the police force on 25.01.2018, the date fixed for removal of encroachment and facilitate the removal of the encroachment from the said land.

Public petition was again submitted to the Respondent No.6, Circle Officer, Mohra, on 27.03.2018, as contained in Annexure-8, and before Commissioner, Gaya, on 03.05.2018, as contained in Annexure-9, but till date, neither any proceeding has been initiated nor the encroachment from the land/road in question has been removed. Hence the present writ application.

Mrs. Sangh Mitra Ghosh, learned AC to GP-15, submits that at present she is not having instruction whether the public road/land has been encroached upon or not, but if the public road/land has been encroached upon, then Respondent No.6, the Circle Officer, Mohra, will initiate a proceeding under the Bihar



Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act'), and he will take such proceeding to its logical conclusion within a time frame.

Considering the rival submission of the parties, this Court is of the view that Section 3 of the Act provides a mechanism to initiate a proceeding 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 encroachment over the public land.

In the present case, it appears that Respondent No.6, the Circle Officer, Mohra, came to know about the encroachment over the land/road in question in 2012, when representation was submitted before him on 24.05.2012, as contained in Annexure-2 (series), thereafter a public petition was submitted before Respondent No.2, Commission, Magadh Range, Gaya, and thereafter the measurement report was submitted by the Circle Amin, to the effect that the private Respondent No.7 has encroached upon the said public road/land, but there is nothing on record to suggest that any proceeding under the Act has been initiated or the encroachment has been removed from the land/road in question, till date.



In the circumstances, it is expected from Respondent No.6, the Circle Officer, Mohra, to examine the revenue records, and if need be, conduct spot verification of the road/land in question, whereupon, if it appears to him that the public road/land has been encroached upon then he will initiate a proceeding under the Act forthwith, if it has already not been initiated till date, and will take such proceeding to its logical conclusion within a period of four months from its initiation, after giving due opportunity of hearing to all affected persons including the petitioner and Private Respondent No.7, in accordance with the provisions of the Act.

Accordingly, this writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

