

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13287 of 2018

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Netra Bhushan alias Netra Bhushan Azad, son of Bhuneshwar Yadav,
Resident of Village-Kasiam, P.O.-Bhashhi, P.S.- Baheri, District-Darbhanga.

... .. 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,
3. The Anchal Adhikari, Baheri at & P.O. Baheri, District-Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Uma Kant Shukla, Adv. Mr. Rajesh Ranjan No.1, Adv.
For the Respondent/s	:	Mr. Sajid Salim Khan, SC-25

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date : 13-07-2018

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

The present Writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the public road which runs from Kusiam to Mahuli Chowk, appertaining to R. S. Plot Nos. 165, 252, 275, 521, 6621 and 6624, situated in Village -Kasiam, P.S.+P.O.- Baheri, District -Darbhanga and the same was constructed under the Prime Minister Rural Road Scheme.

It is submitted by learned counsel for the petitioner that the road in question is a public road and it has been



constructed under the Prime Minister Rural Road Scheme, but the same has been encroached upon by several persons causing inconvenience to the petitioner and public at large. To that effect, the petitioner submitted a public petition on 25.07.2017, as contained in Annexure-1, before the Respondent No.3, the Circle Officer, Baheri, but no action was taken in this regard. Thereafter, the petitioner and others submitted an application before the Sub-Divisional Officer, Darbhanga, Sadar, whereupon, he called upon a report from the Respondent No.3, the Circle Officer, Baheri. In pursuance to the same, the Circle Officer vide Letter No.1360, dated 10.10.2017, as contained in Annexure-2 intimated the Sub-Divisional Public Grievance Redressal Officer, Darbhanga, Sadar that a report has been called from the Anchal Amin and Halka Karmchari and when such report is received, he will get the encroachment removed after initiating encroachment proceeding. But there is nothing on record to suggest that either any encroachment proceeding has been initiated, or the encroachment has been removed from the land in question.

Learned counsel for the State submits 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 Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as '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.

The pre-condition 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 back as on 25.07.2017, 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.

Considering the fair stand of Mr. Sajid Salim Khan, learned SC-25, this Court expects from Respondent No.3, Circle Officer, Baheri to examine the revenue records and if need be, conduct spot verification, whereupon, 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 will take such proceeding to its logical conclusion within a period of three months, by giving due opportunity of hearing to all affected persons including the petitioner in accordance with 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	

