

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13696 of 2018

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Yogi Ram, Son of Bhukhal Ram@ Bhukhasl Mochi, Resident of Village-
Rajwara, Ward No. 9, Police Station-Khanpur, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Rural Development Department, Patna.
 2. The District Magistrate, Samastipur.
 3. The Sub Divisional Officer, Rosera Sub Division, District- Samastipur.
 4. The Circle Officer, Khanpur, District- Samastipur.
 5. Adhkari Ram, Son of Raudhi Ram
 6. Rajendra Ram, Son of Adhkari Ram
- Both Resident of Village- Rajwara, Ward No. 9, P.S. Khanpur, Distt. Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Singh, Adv.
For the Respondent/s : Mr. Sanjay Kumar, AC to AAG-4

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 26-07-2018

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 Bagmati waterways Bandh, appertaining to Khata No.813 old, Plot No. 2564 (old), 4182 (new), situated at Mauza - Shivesingpur Tole Rajwara, Circle + P.S.-Khanpur, District- Samastipur.

Since the Writ application was registered on 16.07.2018, but no counter affidavit has been filed till date and in view of the nature of order this Court intends to pass, this



Court is neither inclined to adjourn the matter nor inclined to issue notice to Private Respondent Nos. 5 and 6.

It is submitted by learned counsel for the petitioner that a public road has been constructed over the Bagmati waterways Bandh which is being used by the public at large for reaching to river Bagmati, but the same has been encroached upon by the Private Respondent Nos.5 and 6, namely, Adhkari Ram and Rajendra Ram respectively. On 11.09.2017, the petitioner transmitted a representation through registered post to the Respondent No.3, the Sub-Divisional Officer, Rosera and the Respondent No.5, the Circle Officer, Khanpur with a request to get the encroachment removed from the public Bandh/land in question, as contained in Annexure 1 series. The petitioner also submitted a representation dated 18.10.2017 to the Respondent No.2, the District Magistrate, Samastipur, as contained in Annexure-2. But till date, neither any proper proceeding has been initiated under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act'), nor the encroachment has been removed from the land in question.

It is submitted by learned AC to AAG-4 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.

Section 3 of the Act mandates for initiating a proceeding for removal of encroachment 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 representation was transmitted to the Sub-Divisional Officer, Rosera and the Circle Officer, Khanpur as far as back as on 11.09.2017, as gets reflected from Annexure-1 series and thereafter, on 18.10.2017 to the Respondent No.2, District Magistrate, Samastipur, 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 or not.

In the circumstances, the Respondent No.4, the Circle Officer, Khanpur, is directed to examine the revenue records and if need be, to 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, Respondent Nos. 5 and 6 and 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	

