

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13917 of 2018

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Bharat Bhagat @ Bharath Bhagat, son of Jagdev Bhagat, Resident of Village-
Hathuwa Bujurg, P.S.-Hathuwa, District-Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Revenue and Land Reforms, Government of Bihar, Patna.
 2. The District Magistrate, Gopalganj
 3. The Sub-Divisional Officer, Hathuwa, Gopalganj.
 4. The Circle Officer, Hathuwa, Gopalganj.
 5. Kanhaiya Choudhary, son of Nathuni Choudhary
 6. Bira yadav @ Sunil Kumar Yadav, son of late Sukdev Yadav, son of late Sukhdev Yadav
 7. Ramashish Choudhary, son of Budhraj Choudhary
- Respondent Nos. 5 to 7 are resident of Village -Hathuwa Bujurg, P.S.-
Hathuwa, District-Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Milind Kumar Mishra, Adv.
For the Respondent/s : Ms. Sanghmitra Ghosh, AC to GP-15

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date : 27-07-2018

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 land, appertaining to Plot No.429, Khata
No.130, Thana No.984, situated at Village -Hathuwa Bujurg,
District-Gopalganj, which is recorded in the Khatian as 'Gair
Majarua Aam land' and on a part of the said land, there is a brick
soling road which connects the village to the main road, but due



to the encroachment made by Respondent Nos. 5 to 7, on the road/land in question, the egress and ingress of the villagers has been substantially obstructed.

Since the Writ application was registered on 18.07.2018, 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 No.5 to 7.

It is submitted by learned counsel for the petitioner that for removal of encroachment from the land in question, the petitioner submitted a representation on 12.05.2018, before the Respondent No.4, the Circle Officer, Hathuwa, as contained in Annexure-1. Consequently, the Respondent No.4, called for a report in that regard from the Halka Karmchhari. In pursuance to the same, the Halka Karmchhari submitted the report on 16.05.2018, as contained in Annexure-2 to the effect that the land in question has been encroached upon and therefore, he suggested measurement of the land in question by Amin. But no measurement of the land in question has been done by the Amin and due to the encroachment made, the villagers at large, is facing great inconvenience, but till date neither any encroachment proceeding has been initiated nor the



encroachment has been removed form the land in question.
Hence, the present writ application.

It is submitted by Ms. Sanghmitra Ghosh, learned AC to GP-15 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 as yet and the same will be taken to its logical conclusion within a time frame.

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, a representation was submitted before the Circle Officer on 12.05.2018, as gets reflected from Annexure-1, 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, Circle Officer, Hathua is directed to examine the revenue records and if need be to conduct spot verification, whereupon, if it appears to him that the 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 to 7 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	

