

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14284 of 2018

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Ram Lagan Das, Son of late Tahal Das, Resident of Village-Chandharpur,
Within Mukhtapur Gram Panchayat, Police Station-Kalyanpur, District-
Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Samastipur.
2. The District Magistrate, Samastipur.
3. Deputy Development Commissioner, Samastipur,
4. Sub-Divisional Officer, Samastipur Sadar, District-Samastipur.
5. Circle Officer, Kalyanpur Circle, District-Samastipur.
6. Rajesh Das, Son of Late Upendra Das,
7. Solim Das
8. Dilip Das,
9. Sikandar Das

Respondent Nos. 7 to 9 are Sons of Late Baleshwar Das, Resident of Village-
Chandharpur, within Mukhtapur Gram Panchayat, Police Station-Kalyanpur,
District-Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Choudhary Shyam Nandan, Adv.
For the Respondent/s : Mr. Rampravesh Nath Tiwari, AC to SC-25

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date : 30-07-2018

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

The present Writ application has been filed for a
direction to the respondent authorities, particularly, Respondent
No.5, the Circle Officer, Kalyanpur, to get the encroachment
removed from public road, appertaining to Khata No.109, Plot
No.642, situated in Village-Chandharpur, District-Samastipur, as
the same has been encroached upon by Private Respondent Nos.



6 to 9 by constructing their house and toilet over the land in question.

In view of the nature of order this Court intends to pass, this Court is neither inclined to adjourn the matter for filing of counter affidavit on behalf of the Respondent-State nor is inclined to issue notice to Private Respondent Nos. 6 to 9.

It is submitted by learned counsel for the petitioner that the land in question is a public road which connects the main road with Block headquarter, but the same has been encroached upon by Respondent Nos. 6 to 9, by construction of house and toilet in the year 2016. The petitioner and the other villagers submitted a representation before the Respondent No.5, the Circle Officer, Kalyanpur. The petitioner also transmitted a representation before the Respondent No.2, the District Magistrate, Samastipur, on 05.03.2018, as contained in Annexure-2 series, but till date, neither any encroachment proceeding has been initiated, nor the encroachment has been removed from the land in question.

It is submitted by learned AC to SC-25 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 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.

The petitioner claims to have submitted the application before the Circle Officer as far back as in 2016 and thereafter, in 2017 before the 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.5, the Circle Officer, Kalyanpur is expected 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. 6 to 9 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	

