

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16015 of 2018

Bindeshwar Ram, Son of Madheshwar Ram @ Madheshwar Prasad, Resident
of Village - Ramgadh Tola Mali, Police Station - Bansi, District - Arwal.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector-cum-District Magistrate, Arwal.
2. The Sub-Divisional Officer, Arwal, District - Arwal.
3. The Circle Officer, Sonbhadra Bansi Suryapur, District - Arwal.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Umesh Kumar
For the Respondent/s : AC to GP18

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 14-08-2018

Heard Mr. Surendra Kumar Mishra, learned counsel for
the Petitioner and learned A.C. to G.P. 18 for the respondent State.

The present writ application has been filed for a
direction to the respondent authorities, particularly, Respondent
No. 3, the Circle Officer, Sonbhadra Bansi Suryapur to comply the
order dated 23.12.2017 passed in Case No.
538110111041700502/2A by the Respondent No. 1, District
Magistrate, Arwal, as contained in Annexure-3, whereby the
Respondent No. 3, the Circle Officer, Sonbhadra Bansi Suryapur
has been directed to initiate an encroachment proceeding in
connection with encroachment on the public land appertaining to
Khata No. 328, Plot No -3309 situated at Mauza- Mali Tola
Ramgadh, Circle- Sonbhadra Banshi Suryapur, Arwal.



It is submitted by learned counsel for the petitioner that the land appertaining to Plot No. 2593, Khata No. 92 is the raiyati land of the petitioner and contiguous north to the plot of the petitioner, the land in question being Khata No. 328, Plot No. 3309 is situated which is recorded in the revenue records of right as 'Gairmajarua Aam' land and the same is being used as public pathway by the petitioner as well as the public at large but due to the encroachment made, the ingress and outgress of the petitioner has been obstructed.

For the removal of the said encroachment from the land in question, the petitioner submitted an application before the Sub-Divisional Public Redressal Officer being Complaint Case No. 53110111041700502, which was disposed of by the Sub-Divisional Public Redressal Officer vide order dated 03.07.2017, as contained in Annexure-1, noticing the callous manner in which the Respondent No. 3, the Circle Officer, Sonbhadra Bansi Suryapur performed his quashi-Judicial function and failed to appear before the Sub-Divisional Public Redressal officer and therefore in the appeal filed by the petitioner, before the Additional-Collector-Cum Appellate Authority, the Additional-Collector-Cum-First Appellate Authority under the Public Grievance Redressal Act did not interfere in the matter keeping in



view the raiyati nature of the land in question, whereas the District Magistrate, Arwal cum-Second Appellate Authority under the Public Grievance Redressal Act, vide order dated 23.12.2017, as contained in Annexure-3, permitted the petitioner to submit an application before Respondent No. 3, the Circle Officer and the Circle Officer, Sonbhadra Bansi Suryapur was directed to conclude the encroachment proceeding within a period of one month and to transmit the compliance report. Consequently, the petitioner submitted an application on 09.03.2018, as contained in Annexure-4, before the Circle Officer, in view of the order of the District Magistrate, Arwal cum-Second Appellate Authority under the Public Grievance Redressal Act but till date, neither any encroachment proceeding has been initiated nor the encroachment has been removed from the public land in question. Hence, the present writ application.

Learned counsel for the respondent State submitted that, at present, he is not having any instruction whether the encroachment has been removed from the land in question or any proceeding under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') has been initiated, but he further submits that if the proceeding has not been initiated till



date, the same will be initiated forthwith and the same will be taken to its logical conclusion within a reasonable time frame.

It appears that the conduct of Respondent No. 3, the Circle Officer has been noticed by the Sub-Divisional Public Grievance Redressal Officer in his order, as contained in Annexure-1. This Court is dismayed to find that inspite of the order of the District Magistrate, Arwal-cum-Second Appellate Authority under the Public Grievance Redressal Act, there is nothing on record to suggest that any proceeding has been initiated till date or the encroachment has been removed from the land in question.

In the circumstances, the Respondent No. 3, the Circle Officer, Sonbhadra Bansi Suryapur is expected to examine the revenue records and if need be, conduct spot verification whereupon if it appears to him that there is encroachment on the land in question, then he will initiate an encroachment proceeding forthwith if not already been initiated, and will take such proceeding to its logical conclusion within a period of three months from the date of receipt/production of a copy of this order, after giving due notice to all affected persons including the petitioner, in accordance with the provisions of the Act.



This writ application is disposed of with the
aforementioned direction and observation.

(Dinesh Kumar Singh, J)

anil/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

