

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16248 of 2018

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1. Ramakant Kumar, Son of Shivchandra Mahto, Resident of Village- Muja, P.O.- Muja Patrahiyan, P.S.- Saraiya, District- Muzaffarpur.
 2. Md. Nazir Ali, Son of Akhtar Hussain, Resident of Village- Bishambharpur, P.O.- Jaitpur, P.S.- Saraiya, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Rural Development Department, Patna.
 2. The District Magistrate, Muzaffarpur.
 3. The Sub-Divisional Public Complaint Redressal Officer, West, Muzaffarpur.
 4. The Circle Officer, Saraiya, District- Muzaffarpur.
 5. Jageshwar Mahto, Son of Late Nakal Mahto,
 6. Bhulawan Mahto, Son of Late Etwari Mahto,
- Respondent Nos. 5 and 6 are residents of Village- Muja Patrahiyan, Panchayat Raj-Rampur Vishwanath P.S.- Saraiya, District- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pramod Rajpati, Adv.
	:	Smt. Durga Kumari, Adv.
For the Respondent/s	:	Mr. Rewti Kant Suman, AC to SC-11

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 16-08-2018

Heard Mr. Pramod Rajpati, learned counsel
appearing on behalf of the petitioners and learned AC to SC 11
appearing on behalf of the Respondent-State.

In view of the nature of order this Court intends to pass, there is no need to issue notice to Private Respondent Nos. 5 and 6 or to adjourn the matter any further for filing counter affidavit.

The present writ application has been filed for issuance of direction to the respondent authorities to get the encroachment removed from the public land appertaining to



Thana No. 533, Khata No. 509, Plot No. 2739 situated in Mauza- Muja Patrahiyan, Block- Saraiya, District- Muzaffarpur.

It is submitted by learned counsel for the petitioners that the aforesaid land is recorded as 'Anabad Sarva Sadharan', but the same has been encroached upon by Private Respondent Nos. 5 and 6. The land in question is being used as a public pathway by the petitioners and others, but due to the encroachment made, the movement of tractors and all other agricultural work have been obstructed. The public land was encroached on 01.03.2014 by Respondent Nos. 5 and 6, namely, Jageshwar Mahto and Bhulawan Mahto, upon which the father of Petitioner No. 2 submitted an application before the Respondent No. 4, the Circle Officer, Sariya, as contained in Annexure-2, and thereafter he submitted another application before the Respondent No. 2, the District Magistrate, Muzaffarpur, as contained in Annexure-3. It appears that notices were issued on 23.06.2014 to the encroachers, as contained in Annexure- 4, under Section 3 of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act'). The notices have also been issued to the Respondent No. 5 on 09.07.2014, as contained in Annexure-5, under Section 6(2) thereby Respondent No 5 has been directed to remove the



encroachment from the land in question by 31.07.2014 failing which, it will be removed by deployment of force and cost of such removal will be realized from him.

Subsequently, notices were also given to the Respondent Nos. 5 and 6 on 31.07.2014, as contained in Annexure-6, for removal of encroachment from the land in question. Consequently Respondent Nos. 5 and 6 removed the encroachment from the land in question. But now in the month of June 2017 the Respondent Nos. 5 and 6 have again encroached the land in question. As a result, the petitioner filed a complaint before the Respondent No. 3, the Sub Division Public Grievance Redressal Officer (West), Muzaffarpur, whereupon he directed the Circle Officer, Saraiya vide order dated 15.06.2017 as contained in Annexure-7, to appear before him on 21.06.2017 and submit the report with respect to encroachment over the land in question. Thereafter the Circle Officer, Saraiya directed the Revenue Karamchari to conduct an inquiry and submit a report, which gets reflected from Annexure-8, Subsequently, Encroachment Case No. 1 of 2017-18 was initiated and notices were issued to Private Respondent Nos. 5 and 6 under Section 3 of the Act, as contained in Annexure-9.



Thereafter, the petitioner filed a complaint on 05.07.2017, as contained in Annexure-10, before the Respondent No. 3, the Sub Division Public Grievance Redressal Officer (West), Muzaffarpur, to the effect that apart from Respondent Nos. 5 and 6, others have also encroached the land in question. Consequently, the Respondent No. 3, the Sub Division Public Grievance Redressal Officer (West), Muzaffarpur vide letter No. 999, dated 05.07.2017 directed the Circle Officer, Saraiya to conduct an inquiry and submit the report, whereupon the Circle Officer, Saraiya vide letter dated 19.07.2017 and 01.08.2017, as contained in Annexure 12 series, intimated the Respondent No. 3, the Sub Division Public Grievance Redressal Officer (West), Muzaffarpur that the encroaches were issued notices and the steps have been taken to get the proceeding of Encroachment Case No. 1 of 2017-18 concluded, but the measurement is yet to be done. The Respondent No. 3, the Sub Division Public Grievance Redressal Officer (West), Muzaffarpur vide order dated 18.09.2017, as contained in Annexure-13, disposed of the complaint filed by the Petitioner No. 1 by directing the Circle Officer, Saraiya to conclude the proceeding of Encroachment Case, but till date, proceeding has not been concluded. Hence the present writ



application.

Learned counsel for the State submits that, at present, he is not having any instruction whether the land in question is a public road/land or Encroachment Case No.1 of 2017-18, has been concluded or not. However, he submits that if encroachment proceeding with regard to the land in question has not been concluded till date, it will be taken to its logical conclusion within a reasonable time frame.

From perusal of material available on record, it appears that earlier notices issued to Private Respondent Nos. 5 and 6, as contained in Annexures 4, 5 and 6 does not bear any encroachment case no. However, the notices have lost its force since there is statement of the petitioners in paragraph 9 of the petition to the effect that in pursuance to notices contained in Annexures 4 to 6 the Respondent Nos. 5 and 6 have removed the encroachment. It has been brought to the notice of this Court that subsequently Encroachment Case No. 1 of 2017-18 has been initiated, but till date it has not been concluded.

In the circumstances, it is expected from the Respondent No. 4, the Circle Officer, Saraiya to take the proceeding of Encroachment Case No. 1 of 2017-18 to its logical conclusion within a period of three months, if it has not



been concluded as yet, after giving due opportunity of hearing to all the affected persons, including the Private Respondent Nos. 5 and 6 and the petitioners, in accordance with the provision of the Act.

Accordingly, the writ application stands disposed of.

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

