

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2864 of 2016

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Braj Kishor Mishra, Son of Late Lal Babu Mishra, Resident of Village-
Tadewaliya, P.S.- Semra District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate-Cum-Collector, Bettiah, West Champaran.
3. The Superintendent of Police Bagaha, West Champaran.
4. The Sub-Divisional Magistrate, Bagaha, West Champaran.
5. The Deputy Commissioner land Reforms, Bagaha West Champaran.
6. The Circle Officer, Bagaha-2, in the District of West Champaran.
7. The Officer-In -Charge of Semra P.S. in the District of West Champaran.
8. Gopal Ram Son of Late Chokat Ram Resident of Village- Tadewaliya P.S.-
Semra District- West Champaran.
9. Chanchal Ram Son of Gopal Ram, resident of Village- Tadewaliya, P.S.-
Semra, District- West Champaran.
10. Ashok Ram Son of Gopal Ram Resident of Village- Tadewaliya, P.S.- Semra,
District- West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bimlesh Kumar Pandey, Adv.
For the Respondent/s	:	Mr. Arjun Prasad, AC to SC-3

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 04-01-2018 Heard learned Counsels appearing on behalf of the
petitioner and the State.

Since the Writ application was filed on 10.02.2016, 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. 8 to 10.

The present Writ application has been filed for a direction
to the respondent authorities to conclude the proceeding of



Encroachment Case No. 02/2013-14, whereby, the encroachers were directed to remove the encroachment from the land appertaining to Khata No.17, Plot No.260, situated in Mauza-Tadwaliya, which is a public road, but the same has been encroached upon by respondent nos. 8 to 10, as a result, the egress and ingress of the petitioner have been obstructed.

It is submitted by learned Counsel for the petitioner that on 05.07.2013, the petitioner filed a representation before the respondent no.6, the Circle Officer, Bagaha-2, for removal of encroachment from the land in question, consequently, Encroachment Case No.02 of 2013-14 was initiated and the report was called from the Revenue Clerk/Circle Inspector, who submitted the report stipulating therein that the land of public road of plot no.281 adjacent to the petitioner's land has been encroached upon by the private respondents. Subsequently, a show cause notice was issued vide order dated 19.07.2013, by the Circle Officer in Encroachment Case No. 02 of 2013-14, whereupon, the private respondents appeared in the said proceeding on 07.08.2013. The measurement of the land was made on 03.01.2014 by the Anchal Amin in presence of the local person including the private respondents as well as the Chaukidar, Revenue Clerk and the Circle Inspector and a report



was submitted by the Anchal Amin before the Circle Officer on 04.01.2014 suggesting encroachment on the public road. The report also stipulates that the land is recorded in the Survey Khatiyan 'as Gair Majarua Malik', as contained in Annexure-2. Thereafter, the Circle Officer himself inspected the land in question on 10.09.2014 and found that only part of the public land, encroachment has been removed and thereafter the matter was adjourned several times and notices were issued to the encroachers. Ultimately, the Circle Officer transmitted a requisition for deployment of adequate police force for removal of encroachment from the land in question. It appears that a proceeding under section 144 of the Cr. P. C. being Case No.435 of 2013 was initiated wherein local SHO submitted a report on 15.09.2013 to the S.D.O. Bagaha suggesting that the encroachment has been made on the land in question, though the said proceeding was dropped, but till date encroachment proceeding has not been concluded.

Learned Counsel for the respondent-State submits that at present he is not having any instruction whether the encroachment proceeding has been concluded or not, but if it has not been concluded as yet, the same will be concluded within a time frame.



Though the Bihar Public Land Encroachment Act, 1956, does not prescribe the time frame for disposal of the proceeding but keeping in view the fact that encroachment proceeding is summary in nature, it is expected that the said proceeding should be concluded within a period of three months of its initiation. The present proceeding being Encroachment Case No. 02 of 2013-14 has been registered in 2013, but even after lapse of three years, it appears that it has not been concluded as yet.

In the circumstances, respondent no.6, the Circle Officer, Bagaha-2, is directed to conclude the proceeding of Encroachment Case No. 02 of 2013-14 by taking the same proceeding to its logical conclusion within a period of three months, after giving due notice of hearing to all the affected persons, including respondent nos.8 to 10.

The Writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

Ashwini/-

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