

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3000 of 2016

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Surendra Prasad Son of Late Bikrama Prasad, Resident of Village - Barhima,
P.S. - Sidhwalia, District - Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar
2. District Magistrate cum Collector, Gopalganj.
3. Deputy Collector Land Reforms, Gopalganj.
4. Anchal Adhikari, Sidhwalia Anchal, P.S. - Sidhwalia, District - Gopalganj.
null null

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Naresh Chandra Verma
For the Respondent/s : AC to SC 5

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 04-01-2018 Heard learned counsels for the parties.

Since the writ application was registered on 11.2.2016, this Court is not inclined to adjourn the matter any further in view of the fact that no counter affidavit has been filed on behalf of the respondent authorities as yet.

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. 1423, Khata No. 252, situated in Village Barhima, P.S. - Sidhwalia, District - Gopalganj which was being used as public road.

It is submitted by learned counsel for the petitioner that the land in question is recorded in the Survey Khatiyan (Annexure 1) as Gairmajarua Aam but the same has been encroached by one Ram Bichar Prasad and his brothers by making construction over



the same, as a result, the public at large is facing difficulty as the public road has been substantially blocked. The petitioners submitted an application before the respondent no. 4, Circle Officer, Sidhwalia on 1.12.2015 as contained in Annexure 2 with a prayer for getting the encroachment removed from the public land but no action was taken. Thereafter, the petitioner submitted an application before the respondent no. 2, the District Magistrate, Gopalganj on 11.12.2015. Consequently, the I.O. of the Revenue Cell of the Gopalganj Collectorate directed the respondent no. 4 vide letter no. 1963 dated 23.12.2015, as contained in Annexure 3, to take needful action in the matter, after enquiry, but even thereafter, the respondent no. 4, the Circle Officer, Sidhwalia failed to take any initiative, as a result, till date, neither any proceeding under the Bihar Public Land Encroachment Act (hereinafter referred to as the 'Act') has been initiated nor the encroachment has been removed. Hence, the present writ application.

Learned counsel for the respondents submits that at present, he is not having any instruction whether the encroachment has been removed or not. However, he submits that if any proceeding has not been initiated, the same shall be initiated and taken to its logical conclusion within a time frame.



Considering the rival submissions of the parties, in view of this Court, for initiating a proceeding under the Act, it should appear to the Collector under the Act from an application made by any person or upon the information received from any source that any person has made or is responsible for the continuation of encroachment upon any public land.

In the present case, it appears that the representation was submitted before the respondent no. 4, the Circle Officer, Sidhwalia on 2.12.2015 as gets reflected from the representation, as contained in Annexure 2, and the I.O. of the Revenue Cell of the Gopalganj Collectorate directed the respondent no. 4 vide letter no. 1963 dated 23.12.2015, as contained in Annexure 3, to take needful action in the matter after enquiry, but there is nothing on record to suggest that any action has been taken in pursuance to the said representation.

In the circumstances, the respondent no. 4, the Circle Officer, Sidhwalia is expected to examine the issue and if need be, conduct spot verification and on doing so, if it appears to him that the public land has been encroached upon, then he will initiate the proceeding under the Act within two weeks of the receipt/production of a copy of this order and will take such proceedings to its logical end within a period of three months



thereafter, after giving due opportunity of hearing to all affected persons in accordance with the provisions of the Act.

This writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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