

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.5707 of 2016**

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Jai Prakash Chaudhary, Son of late Tarak Nath Chaudhary, Resident of  
Village - Sahilapatti, P.O. - Reva, P.S. - Saraiya, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The D.M.-cum-Collector, Muzaffarpur.
3. The Sub-Divisional Officer, West Muzaffarpur, District - Muzaffarpur.
4. Circle Officer, Saraiya Block, District - Muzaffarpur.
5. The Officer-in-charge of Saraiya Police Station, Saraiya, Muzaffarpur.
6. Ashok Singh, Son of late Ramphal Singh
7. Kameshwar Singh, Son of late Mathura Singh
8. Sarita Singh, Son of late Chanar Singh
9. Jangal Singh, Son of late Chanar Singh
10. Mangal Singh, Son of late Chanar Singh

All are Residents of Village - Sahilapatti, P.O. - Reva, P.S. - Saraiya, District -  
Muzaffarpur.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Rajeev Ranjan, Adv.  
For the Respondent/s : Mr. AAG12 R.N.DUBEY

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**  
**ORAL ORDER**

2      10-01-2018              Heard learned Counsels appearing on behalf of the  
petitioner and the respondent- State.

The present Writ application has been filed for a direction  
to the respondent authorities to get the encroachment removed  
from the land appertaining to Thana No. 446, Khata No.110,  
Plot No.159, situated in Village -Sahilpatti, P.S.-Saraiya,  
District- Muzaffarpur.

Re. Interlocutory Application No.589 of 2017.

Interlocutory Application No.589 of 2017 has been filed  
for substitution of legal heirs of respondent no.6, Ashok Singh,



who died on 18.12.2016, leaving behind his wife Indu Devi, mother Chinta Kaur @ Chinta Devi and only son Golu Kumar.

Learned Counsel appearing on behalf of the respondent-State has no objection in allowing the interlocutory application.

Learned Counsel for the petitioner is permitted to expunge the name of respondent no.6 from the array of the parties and substitute his legal heirs as respondent nos. 6(a), 6(b) and 6(c) as detailed in paragraph no.3 of the interlocutory application.

Accordingly, the Interlocutory Application No. 589 of 2017 is disposed of.

Re. Civil Writ Jurisdiction Case No. 5707 of 2016.

Since the Writ application was registered on 28.03.2016, 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. 6 to 10.

It is submitted by learned Counsel appearing on behalf of the petitioner that the land in question is recorded in Khatian as 'Gairmajarua Bihar Sarkar land' and used by the petitioner and the public as common road. For removal of encroachment from the land in question, a public petition was submitted on 12.08.2015 before respondent no.4, the Circle Officer, Saraiya,



as contained in Annexure-2, but no action has been taken. Thereafter, the petitioner and others submitted a representation before the respondent no.2, the Collector, Muzaffarpur on 10.12.2015, as contained in Annexure-3. Subsequently, Encroachment Case No. 77 of 2015 was initiated by the respondent no.4, the Circle Officer, Saraiya, whereupon, the Circle Inspector was directed to get the land in question measured, who took measurement of the land in question in presence of local people and found that 6 decimal of 'Aam Rasta' has been encroached upon by the private respondents and submitted a report to that effect before the Circle Officer, Saraiya, but the encroachment has not been removed from the land in question. In the meantime, the private respondents are making endeavor to get the land in question settled in their favour in connivance with the government officials. Hence, the present Writ application.

Learned Counsel appearing on behalf of the respondent-State submits that at present he is not having any instruction whether Encroachment Case No.77 of 2015 has been concluded or not, but if it has not been concluded, the same will be concluded within a time frame.

Considering the rival submissions of the parties, respondent



no.4, the Circle Officer, Saraiya, is directed to conclude the proceeding of Encroachment Case 77 of 2015 by taking such 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. 6 to 10 under the provisions of the Bihar Public Land Encroachment Act, 1956.

The Writ application is, accordingly, disposed of with the aforementioned observation and direction.

**(Dinesh Kumar Singh, J)**

Ashwini/-

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