

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5397 of 2016

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Ajay Rai @ Ajay Kumar Rai Son of Ramchandrarai, Resident of Village - BabuTola Gurwaliya, Police Station - Manupaul, O.P., District - West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar, through the District Magistrate, Bettiah, District West Champaran.
 2. The Superintendent of Police, Bettiah, District - West Champaran.
 3. The Sub-Divisional Magistrate, Sadar, Bettiah, District - West Champaran.
 4. The Officer In - Charge, Manupaul (O.P.), District - West Champaran.
 5. The Anchal Adhikari, Block Chanpatia, Police Station - Chanpatia, District - West Champaran.
 6. Bhola Ram Son of Late Dharichhan Ram,
 7. Kunti Devi, Wife of Bhola Ram,
 8. Dadan Ram Son of Bhola Ram,
 9. Madan Ram Son of Bhola Ram
- All are Resident of Village -Malhani Tola, Gurwaliya, Police Station - Manupaul (O.P.), Block Chanpatia, District - West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar No.-7, Adv.
For the Respondent/s : Mr. Anirban Kundu, SC-24

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 05-01-2018 Heard learned Counsels for the petitioner and the respondent-State.

Though a counter affidavit has been filed on behalf of respondent no.2, the Superintendent of Police, Bettiah, West Champaran, but no counter affidavit has been filed either on behalf of the District Magistrate and Sub-Divisional Officer, Bettiah, West Champaran or the Circle Officer, Chanpatia, but in view of the nature of order this Court intends to pass, this Court is neither inclined to issue notice to the private respondent nos.



6 to 9 nor adjourn the matter any further for filing of counter affidavit.

The present Writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the public road which runs from Nawalpur to Bettiah.

It is submitted by learned Counsel for the petitioner that the land in question is a public road which is situated adjacent to the petitioner's raiyati land, appertaining to Khata No. 388, Plot No. 256, situated in Village-Babu Tola, Circle -Gurwaliya, P.S. Manuapul, District-West Champaran, but due to the encroachment made by the private respondents, the free flow of the traffic over the road in question has been completely impeded, including the egress and ingress of the petitioner over his raiyati land. The petitioner made several representations before the District Magistrate, the Sub-Divisional Magistrate, Sadar, Bettia, West Champaran and the Circle Officer, Chanpatia, respondent nos. 1, 3 and 5 respectively transmitted through speed post dated 21.12.2015, but no action was taken by the respondent authorities. Hence, the present Writ application.

Learned Counsel appearing on behalf of respondent nos. 1 to 6 submits that at present he is not having any instruction



whether the land in question is a public land, but if it is a public land and encroachment has been made, proper proceeding will be initiated forthwith, if it has not already been initiated and will be concluded within a time frame.

However, a counter affidavit has been filed on behalf of respondent no.2, the Superintendent of Police, Bettiah, West Champaran, stipulating therein that if the authorities will submit requisition for adequate police force, the same will be provided for removal of the encroachment over the public land.

The Bihar Public Land Encroachment Act (hereinafter referred to as 'the Act') provides a mechanism for removal of encroachment from the public land. Section 3 of the Act stipulates that if it appears to the Collector under the Act from an application made by any person or upon information received from any sources that any person has made or is responsible for the continuance of any encroachment upon any public land, he will initiate a proceeding for removal of encroachment from a public land.

It appears that the petitioner transmitted an application to the District Magistrate, Sub-Divisional Magistrate and the Circle Officer, respondent nos. 1, 3 and 5, respectively, through speed post, as far back in 2015, but there is nothing on record to



suggest that such applications were not received by them. Moreover, the Writ application was registered on 17.03.2016, even after that the slumber of the respondent authorities, particularly, respondent no.5, the Circle Officer, Chanpatia, did not break.

In the circumstances, respondent no.5, the Circle Officer, Chanpatia, is directed to examine the record and if need be, conduct a spot verification, whereupon, if he finds that public road/land has been encroached upon then he will initiate a proceeding forthwith with regard to the land in question under the provisions of the Act, if it has not already been initiated and it is expected from him to take such proceeding to its logical conclusion within a period of three months, after giving due opportunity of hearing to all affected persons under the provisions of the Act.

The Writ application is, accordingly, disposed of with the observation aforesaid.

(Dinesh Kumar Singh, J)

Ashwini/-

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