

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.19325 of 2017**

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Guput Singh @ Gupteshwar Singh, Son of Late Sheo Bachan Singh, Resident of Village- Bensagar, P.S.- Dinara, District- Rohtas.

... .. Petitioner

Versus

1. The State of Bihar, the Principal Secretary, Land, Reforms Department, Patna.
2. The District Magistrate, Rohtas.
3. The Sub- Divisional Officer, Bikramganj, District- Rohtas.
4. The Anchaladhikari Dinara District- Rohtas.
5. Lukuri Bhar, Son of Late Sheo Nath Bhar
6. Dasai Bhar
7. Sheoji Bhar
8. Ramesh Bhar, all three are Sons of Late Sheo Nath Bhar
9. Kashi Choudhari
10. Rama Shankar Choudhary, both 9 and 10 are Sons of Late Sheo Bachan Choudhary
11. Lal ji Bhar, Son of Late Budhai Bhar
12. Subhash Bhar, Son of Sukai Bhar
13. Ramayan Bhar, Son of Lal ji Bhar
14. Ram ji Singh, Son of Gouri Singh, All are Resident of Village- Bensagar, P.S.- Dinara, District- Rohtas.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Arabind Nath Pandey  
For the Respondent/s : Mr. S.C. Yadav- GP15

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

**Date : 16-03-2018**

Heard Mr. Arabind Nath Pandey, learned counsel for the petitioner and Mr. S.C. Yadav, learned GP-15, for the respondent-State.

Since the present writ application was registered on 22.12.2017, but till date no counter affidavit has been filed, hence, this Court is not inclined to adjourn the matter any further.



In view of the nature of order this Court intends to pass, this Court is also not inclined to issue notice to private respondent nos. 5 to 14.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the public land, appertaining to Khata No. 144, Plot No. 982, situated in Mauza Bensagar, P.S. Dinara, District Rohtas.

It is submitted by learned counsel for the petitioner that the land in question is recorded in the Revenue Record as 'Ahar' (water channel) and the public at large use the said 'Ahar' for irrigation purpose, but the same has been encroached upon by private respondent nos. 5 to 14. The petitioner also apprehends that private respondent nos. 5 to 14 will also encroach his raiyati land, appertaining to Khata No. 30, Plot No. 157, which is situated adjacent to the land in question. For removal of the encroachment from the land in question, the petitioner submitted an application before respondent no. 4, the Circle Officer, Dinara on 01.07.2016, as contained in Annexure-1, but no action was taken. Consequently, Complaint Case No. 53211129071600201 was filed before the Sub-Divisional Public Grievance Redressal Officer, Bikramganj, Rohtas and the said complaint was disposed on 29.07.2016, in view of the letter of respondent no.4, the Circle



Officer, Dinara dated 20.09.2016, submitted before the Sub-Divisional Public Grievance Redressal Officer, Bikramganj, Rohtas, to the effect that the Halka Karamchari submitted a report after conducting spot verification and action has been taken for removal of the encroachment, hence encroachment will be removed from the land in question.

But in spite of above mentioned stand of respondent no.4, the Circle Officer, Dinara, no encroachment proceeding under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') has been initiated. Ultimately, a public petition was filed before respondent no. 4, the Circle Officer, Dinara on 01.09.2017, as contained in Annexure-3, but in spite of that, till date no action has been taken for removal of the encroachment from the land in question. Hence, the present writ application.

Learned GP-15, however, submits that at present he is not having any instruction, but if the encroachment is found to have been made on a public land then appropriate proceeding will be initiated under the Act forthwith for removal of the encroachment from the land in question.

Having heard learned counsels for the parties, this Court is of the view that *sine qua non* for initiating a proceeding under Section 3 of the Act is that it should appear 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 the encroachment upon the public land.

No doubt, in the present case, representations were filed before respondent no.4, the Circle Officer, Dinara on 01.07.2016 and 01.09.2016, as contained in Annexure-1 and 3. Moreover, a complaint was filed before the Sub-Divisional Public Grievance Redressal Officer, Bikramganj, Rohtas on 29.07.2016, wherein an impression was created by transmitting a letter on behalf of respondent no.4, the Circle Officer, Dinara that the encroachment proceeding has been initiated and the encroachment will be removed from the land in question, but there is nothing on record to suggest that any encroachment proceeding under the Act has been initiated till date, which is an absolute abdication of the *quasi judicial* jurisdiction by respondent no.4, the Circle Officer, Dinara.

It is expected from respondent no.2, the District Magistrate, Rohtas to look into the matter and to direct all the officers, who have been authorized to act as Collector under the Act, to deal with the issue of removal of encroachment from public land with utmost sensitivity.



In the circumstances, it is expected from respondent no.4, the Circle Officer, Dinara to examine the Revenue Record and if need be, conduct spot verification, whereupon if it appears to him that the land in question is a public land but the same has been encroached upon, then he will initiate a proceeding under the Act forthwith, if the same has already not been initiated, and take such proceeding to its logical conclusion within a period of four months from its initiation, after giving due opportunity of hearing to all affected persons including private respondent nos. 5 to 14, in accordance with the provisions of the Act.

Accordingly, with the above observation and direction, the present writ application is disposed of.

**(Dinesh Kumar Singh, J)**

Amrendra/-

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