

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14559 of 2018

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Laxman Mandal, Son of Late Kusum Lal Mandal, resident of Village-
Deori, P.O.- Tumol, P.S.- Ghanshyampur, District- Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Department of land Revenue and Land Reforms, Government of Bihar, Patna.
2. The District Magistrate, Darbhanga.
3. The Sub-Divisional Officer, Biraul, Darbhanga.
4. The Anumandaliya Lok Shikayat Nivaran Padadhikari, Biraul, Darbhanga.
5. The Land Reforms Deputy Collector, Biraul, Darbhanga.
6. The Senior Superintendent of Police, Darbhanga.
7. The Circle Officer, Ghanshyampur, Darbhanga.
8. The Deputy Superintendent of Police, Biraul, Darbhanga.
9. The Officer Incharge, Ghanshyampur Police Station, Darbhanga.
10. Lalan Mandal, Son of Yogi Mandal.
11. Dinesh Mandal, Son of Late Harish Chandra Mandal, Both resident of Village- Deori, P.O.- Tumol, P.S. and Circle- Ghanshyampur, District- Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Barun Kumar Choudhary, Advocate
Mrs. Pratima Kumari, Advocate

For the Respondent/s : Mr. Rishi Raj Sinha, SC-19
Mr. Birendra Pd. Singh, AC to SC-19

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 30-07-2018

Heard Mr. Barun Kumar Choudhary, learned counsel for the petitioner and Mr. Birendra Pd. Singh, learned AC to SC-19 for the State respondents.

In view of the nature of order this Court intends to pass, this Court is neither inclined to adjourn the matter any further nor to issue notice to private respondent nos. 10 and



11.

The present Writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the land appertaining to Khata No. 816, Plot No. 9069 situated in Mauza – Ghanshyampur, District – Darbhanga which has been recorded as ‘Gairmajarua Aam’ and which has been encroached upon by private respondent nos. 10 and 11.

It is submitted by the learned counsel for the petitioner that the land appertaining to Khata No. 767, Plot No. 9062 situated in Mauza – Ghanshyampur, District – Darbhanga is the ancestral land of the petitioner and on the western side of the land of the petitioner, Gairmajarua Aam, land is situated, and which connects Pali village from Tumol village, which is used by public at large, but the same has been encroached upon by the private respondent nos. 10 and 11. Public petitions were submitted before the authorities concerned, as contained in Annexure-5 series, but till date, neither the encroachment proceeding has been initiated nor the encroachment has been removed from the land in question, which is causing great inconvenience to public at large.

Learned AC to SC-19 submits that, at present, he is not having any instruction whether any encroachment



proceeding has been initiated or not, and if initiated, whether it has been concluded or not and he further submits that if a public land has been encroached upon then appropriate direction will be issued to the Circle Officer, Ghanshyampur, Respondent No. 7 to initiate a proceeding and conclude the same within a time frame.

Having heard the learned counsels for the parties, this Court is of the view that for initiation of proceeding, the only pre-condition under Section 3 of the Bihar Public Land Encroachment Act, 1956 is that if it appears to the Collector under the Act that from an application made or from the information received that any person has encroached upon a public land or is responsible for continuance of any encroachment upon any public land. In the present case, Respondent No. 7, Circle Officer, Ghanshyampur, came to know about the encroachment on the land in question on 18.01.2018 when a public petition was submitted before him by the petitioner.

In the circumstances, it is expected from the Respondent No. 7, Circle Officer, Ghanshyampur to examine the revenue records, if need be make spot verification or to conduct the measurement of the land in question, whereupon if it appears that the public land has been encroached upon, then he will initiate a proceeding under the provisions of Bihar Public Land



Encroachment Act, 1956 forthwith, if it has already not been initiated, and will take such proceeding to its logical conclusion in accordance with provisions of the Act within a period of four months from the date of receipt/production of a copy of this order, after giving due notice to all affected person including private respondent nos. 10 and 11 and the petitioner.

Accordingly, with the aforesaid observation and direction, this Writ application is disposed of.

(Dinesh Kumar Singh, J)

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