

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14681 of 2018

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Prince Kumar @ Prince Kumar Patel, Son of Suresh Prasad Singh, R/o
Village- Rampur Kaithi, P.O.-Angarhi, P.S.-Haspura, District-Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Irrigation Department, Bihar, Patna.
3. The District Magistrate, Aurangabad.
4. The Sub-Divisional Magistrate, Daudnagar, Aurangabad.
5. The Circle Officer, Haspura Block, Aurangabad.
6. Lalmohan Paswan Son of Krishna Paswan, R/o Village- Rampur Kaithi, P.O.-
Angarhi, P.S.-Haspura, District-Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Sumiran Rai, Adv.
For the Respondent/s : Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 01-08-2018

Heard Mr. Ram Sumiran Rai, learned counsel for the
petitioner and learned AC to SC-11 for the respondent-State.

Though the present writ application was registered on
26.07.2018, but in view of the nature of order, this Court intends to
pass, this Court is not inclined either to adjourn the matter any
further or to issue notice to private Respondent No. 6.

The present writ application has been filed for a
direction to the respondent authorities to get the encroachment
removed from the public land/water channel (Aahar), appertaining
to Khata No. 168, Plot No. 856 and 874, situated at Mauza
Rampur Kaithi, Circle Haspura, District Aurangabad.



It is submitted by learned counsel for the petitioner that the water channel is existing over a public land which also gets reflected from the village map, as contained in Annexure-1, but the same has been encroached upon by private Respondent No.6 and others, by constructing their houses over the said land. The water channel (Aahar) is the only reservoir for the villagers at large as an alternative source of irrigation but the same has been jeopardized due to encroachment made by private Respondent No.6. For removal of the encroachment from the land in question, a public petition was submitted before the Prakhand Pramukh, Haspura on 11.06.2018, as contained in Annexure-2, subsequently, the Prakhand Pramukh intimated Respondent No.5, the Circle Officer, Haspura and requested him to remove the encroachment from the land in question after conducting proper inquiry. Respondent no.5, the Circle Officer, Haspura, on 11.06.2018, issued notice to private Respondent No.6, to submit his show cause, as under what circumstances, he has encroached upon the said public land. A public petition was also submitted to Respondent No.5, the Circle Officer, Haspura, on 22.06.2017, as contained in Annexure-4, and before Respondent No.3, the District Magistrate, Aurangabad, on 24.08.2017, as contained in Annexure-5, for removal of the encroachment from the land in question, but till date, neither any



proceeding has been initiated nor the encroachment has been removed from the land in question. Hence, the present writ application.

Learned AC to SC-11, submits that at present, he is not having any instruction whether the land in question is a public land/water channel or not, but if the public land/water channel has been encroached upon, then appropriate proceeding, under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act'), will be initiated and the said proceeding will be taken to its logical conclusion within a time frame.

For initiation of the proceeding, the only pre-condition is that if it should appear to the Collector under the Act from an application made by any person or upon information received from any sources that a person has made or is responsible for the continuation of the encroachment over the public land.

As per the pleadings of the petitioner, Respondent No.5, the Circle Officer, Haspura, came to know about the said Encroachment made over the Water Channel (Aahar), as far back as on 11.06.2018, when the Prakhand Pramukh intimated him, whereupon he issued a notice to private respondent no.6, thereafter on 22.06.2017, when a public petition was submitted for getting the encroachment removed from the land in question, but there is



nothing on record to suggest that any proceeding has been initiated or encroachment has been removed from the land in question till date. Hence, it appears that this Court has been deputed as a supervising officer to the Collectors under the Act, to remind them of their statutory jurisdiction as incorporated under the Act.

In the circumstance, Respondent No.5, the Circle Officer, Haspura, is expected to examine the Revenue Records, and if need be, conduct spot verification, whereupon, if it appears to him that the land in question is a public land/water channel, and the same has been encroached upon, then he will initiate a proceeding forthwith, if it has already not been initiated as yet, and will take such proceeding to its logical conclusion within a period of four months from its initiation, after giving due notice to all affected persons, including the petitioner and private Respondent No. 6, in accordance with the provisions of the Act.

Accordingly, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	13.08.2018
Transmission Date	N.A.

