

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3022 of 2018

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Muneshwar Prasad @ Muneshwar Prasad Singh, Son of Late Chhotu Prasad Singh, resident of Village- Rustampur, P.S.- Hulasganj, District- Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Rural Development Department, Patna.
2. The Director, Rural Development Department, Government of Bihar, Patna.
3. District Magistrate, Jehanabad.
4. Superintendent of Police, Jehanabad.
5. Sub Divisional Officer, Jehanabad.
6. Circle Officer, Hulasganj, District Jehanabad.
7. Sunil Pandey, Son of Late Ram Bechan Pandey, resident of Village- Rustampur, P.S.- Hulasganj, District- Jehanabad.
8. Anil Pandey, Son of Late Ram Bechan Pandey, resident of Village- Rustampur, P.S.- Hulasganj, District- Jehanabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suraj Narain Yadav
For the Respondent/s : Mr. Harish Kumar - GP 8

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 12-04-2018

Heard learned counsels for the parties.

The present writ application has been registered on 16.2.2018 but no counter affidavit has been filed. Hence, in view of the nature of order this Court intends to pass, this Court is neither inclined to adjourn the matter for filing counter affidavit nor to issue notice to respondent nos. 7 and 8.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the public road/land appertaining to Khata No. 236, Plot No. 1901, situated in Village Rustampur, P.S. Hulasganj, District – Jehanabad by initiating a proceeding under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as ‘the Act’).



It is submitted by learned counsel for the petitioner that on the land in question, a 20 ft. wide public road is situated in village Rustampur but in 2016, the private respondent nos. 7 and 8 encroached 16-17 ft. of the said public road by constructing their houses. The conduct of the private respondents was opposed by the petitioners and other villagers and was also represented before the authorities, but no action was taken. A public representation dated 17.11.2017, as contained in Annexure 1, was filed before the respondent no. 6, Circle Officer, Hulasganj but no action was taken and due to inaction on the part of respondent no. 6, the private respondents have made further encroachment of the public road by constructing houses. On 26.12.2017, further public representation as contained in Annexure 2 series were filed before the respondent no. 3, the District Magistrate Jehanabad and respondent no. 6, the Circle Officer, Hulasganj, respectively but even then no action has been taken for removal of encroachment as neither any encroachment proceeding has been initiated under the Act nor the encroachment has been removed.

Learned counsel for the official respondents submits that at present, he is not having any instruction whether the land in question is a public land and the encroachment has been removed or not but if the land in question is a public land, appropriate proceeding will be initiated and the same will be taken to its logical conclusion with the time frame.



Having heard learned counsels for the parties, this Court feels that due to abdication of quasi judicial jurisdiction by the Circle Officers, this Court has been flooded with the writ applications with prayer for removal of encroachment from the public land. There is no mechanism before this Court to examine whether the land is a public land or not.

The sine qua non for the initiation of a proceeding under the Act is that it should appear to the Collector under the Act from an application made by any person or upon the information received from any source that any person has made or is responsible for the continuation of encroachment upon any public land.

No doubt, in the present case, representation has been submitted not only before the respondent no. 6, the Circle Officer, Hulasganj on 17.11.2017 but also before the respondent no. 3, the District Magistrate, Jehanabad, but there is nothing on record to suggest that any action has been taken in pursuance to the said representations.

In the circumstances, the respondent no. 6, the Circle Officer, Hulasganj is expected to examine the revenue records with regard to the land in question and if need be, make spot verification and get the land measured and on doing so, if it appears to him that the public land has been encroached upon, then he will initiate the proceeding under the Act within two weeks of the receipt/production of a copy of this order and will take such



proceedings to its logical conclusion within a period of three months thereafter, after giving due opportunity of hearing to all affected persons including private respondent nos. 7 and 8 in accordance with the provisions of the Act.

This writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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CAV DATE	
Uploading Date	
Transmission Date	

