

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1900 of 2018

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Bandhu Baitha, Son of late Khublal Baitha, Resident of Village- Manjha Gosai, P.S. Phulwaria, District Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through Collector, Gopalganj, District - Gopalganj.
2. The Collector Gopalganj, District - Gopalganj.
3. The Additional Collector, Gopalganj, District - Gopalganj.
4. The Deputy Development Commissioner Gopalganj, District - Gopalganj, District Gopalganj.
5. The Sub -Divisional Officer, Hathua, District -Gopalganj.
6. The Sub-Divisional Public Grievances redressal, Officer, Hathua, District- Gopalganj.
7. The Deputy Collector Land Reforms, Hathua, District- Gopalganj.
8. The Anchal Padadhikari, Phulwaria, District Gopalganj.
9. Uma Baitha
10. Lalan Baitha
11. Madan Baitha
12. Indradeo Baitha
All Sons of late Suryadeo Baitha
13. Vishawanath Sah, Son of late Dhanraj Sah
Serial nos. 9 to 13 are resident of Village- Manjha Gosai, P.S. and Anchal Phulwaria, District Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suresh Prasad Bhakta, Adv.
For the Respondent/s : Md. Khurshid Alam, AAG-12

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 09-02-2018 Heard learned Counsels for the petitioner and the respondent-State.

In view of the nature of order this Court intends to pass, this Court is neither inclined to adjourn the matter nor inclined to issue notice to private respondent nos. 9 to 13.



The present Writ application has been filed for a direction to respondent authorities to get the encroachment removed from the public land appertaining to Khata No. 95, Plot No. 3, Thana No. 879, situated in Mauza- Manjha Gosai, Circle-Phulwaria, District-Gopalganj, as the same has been encroached upon by the private respondent nos. 9 to 13.

It is submitted by learned Counsel for the petitioner that the land in question is recorded as 'Gairmazarua Malik' in the revisional survey recorded in favour of Hathua Estate, but after abolition of Zamindari, the land in question vested in the State of Bihar. Under the Social Forestry Scheme, the petitioner was given the land in question by the authorities of the State of Bihar for plantation of trees, vide License No. 11/88-89. A copy of the aforesaid licence has been brought on record as Annexure-1 series. Consequently, the petitioner made plantation on the aforesaid land under the Social Forestry Scheme, which gets reflected from the report of the Circle Amin and Block Agriculture Officer, Hathua, as contained in Annexure-2 series, but the encroachers not have only encroached the land, but also destroyed the plantation of the land in question.

The petitioner submitted an application before the respondent no.5, the S.D.O., Hathua, who called for a report



from the Executive Magistrate, Hathua. Consequently, the Executive Magistrate submitted the report on 10.01.1994, as contained in Annexure-3. Considering that plantation have been destroyed, a criminal case was lodged against Suryadeo Baitha and Dhanaraj Sah. The accused were convicted after conclusion of trial vide judgment dated 20.02.1997 in Trial No.240 of 1997 passed by the learned Judicial Magistrate 1st Class, Gopalganj. However, convicts were released after due admonition under Section 3 of the Probation of Offenders Act, 1958. Thereafter, the petitioner submitted an application on 23.01.2017, before the Circle Officer, as contained in Annexure-5, but no action was taken, hence, a petition was filed before respondent no.6, the Sub-Divisional Public Grievances Redressal Officer, Hathua, which was numbered as Case No.185 of 2017-18, wherein, respondent no.6, the Sub-Divisional Public Grievances Redressal Officer, vide order dated 19.07.2017 directed the Circle Officer, Phulwaria to take action in accordance with law and submit a report to that effect within two months. Subsequently, the petitioner preferred an appeal before the 1st Appellate Authority -cum-District Public Grievance Redressal Officer, Gopalganj and the same was disposed of vide order dated 07.10.2017 with a direction to the DCLR, Gopalganj to



conduct an enquiry and if he finds that encroachment on the public land has been made, then to get the encroachment removed through Circle Officer, but till date no action has been taken. Hence, the present Writ application.

It is submitted by learned Counsel appearing on behalf of the respondent-State that at present, he is not having any instruction whether the land in question is a public land/road or not, but if it is a public land, then a proper proceeding under the provisions of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as the 'Act') will be initiated forthwith, if it has not been initiated till now and the same will be concluded within a time frame.

Considering the rival submissions of the parties the respondent no.8, the Circle Officer, Phulwaria, is directed to examine the records and conduct spot verification and if he finds that public road/land has been encroached upon, then he will initiate a proceeding with regard to the land in question under the provisions of Act, if it has not already been initiated and it is expected from him to take such proceeding to its logical conclusion in accordance with the provisions of the Act, within a period of three months, after giving due opportunity of hearing to all affected persons including respondent nos. 7 and 8.



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

(Dinesh Kumar Singh, J)

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