

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3163 of 2018

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Shailendra Kumar Singh, aged about 60 years, S/o Late Ram Bilakshhan Singh, Resident of Village- Makhnahi, P.O.- Barioul, P.S.- Sadar (Mabbi O.P.) Prakhand- Darbhanga Sadar, District- Darbhanga, present address C/o Sri Anup Narain Singh at Village Maina Nagar Kothi, P.S.- Pranpur, Block- Pranpur, District- Katihar.

... .. Petitioner/s

Versus

1. The Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Old Secretariat, Patna at Patna.
2. The District Magistrate, Katihar at Katihar.
3. The Land Acquisition Officer, Katihar, District- Katihar.
4. The Circle Officer, Pranpur Circle, District- Katihar.
5. Sooplal Dome, S/o Santokhi Dome, resident of Village- Maina Nagar, P.S.- Pranpur, District- Katihar.
6. Dokai Dome, S/o Late Mihilal Dome, resident of Village- Maina Nagar, P.S.- Pranpur, District- Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Adv.
For the Respondent/s : Ms. Archana Prasad, AC to SC-19

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 26-06-2018

Heard learned counsels for the petitioner and the respondent-State.

The present Writ application has been filed for a direction to the respondent authorities to get the encroachment removed from flank of National Highway No.81, appertaining to Plot No.2178 as the same has been encroached upon by private Respondent Nos. 5 and 6.

Since the Writ application was registered on 17/02/2018, but no counter affidavit has been filed till date and



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. 5 and 6.

It is submitted by learned counsel for the petitioner that Plot No. 2178 was acquired for the construction of National Highway vide Land Acquisition Case No. 09 of 2006-07 which is adjacent to the raiyati land of the petitioner appertaining to Plot No.2175, Thana No.180, Khata No.313 and it is situated adjacent to NH-81, but in between the two plots, the flank of National Highway is situated which is being used as service lane by the public at large, but the same has been encroached upon by private Respondent Nos. 5 and 6. The petitioner submitted a representation before the Respondent No.4, the Circle Officer, Pranpur on 07.02.2017 and 19.12.2016, as contained in Annexures P-3 and 4 for removal of encroachment, but till date neither any encroachment proceeding has been initiated, nor the encroachment has been removed from the land in question. Hence, the present writ application.

It is submitted by learned AC to SC-19 that, at present, she is not having any instruction whether the land in question is a public land/road or not, but if it is a public land/road and the same has been encroached upon, then a proper



proceeding under the provisions of the Act will be initiated forthwith, if it has not been initiated and the same will be taken to its logical conclusion within a time frame.

The sine qua non for initiating a proceeding for removal of encroachment is prescribed under Section 3 of the Act, which stipulates that if it appears 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 any encroachment upon any public land, he will initiate a proceeding under the Act.

No doubt, in the present case representations were submitted before the Circle Officer, as far as back on 19.12.2016 and on 07.02.2017, as gets reflected from Annexures-P-4 and 3, but there is nothing on record to suggest that any proceeding has been initiated.

In the circumstances, Respondent No.4, the Circle Officer, Pranpur is expected to examine the revenue records and if need be conduct spot verification, whereupon, if it appears to him/her that public road/land has been encroached upon, then he/she will initiate a proceeding forthwith with regard to the land in question in accordance with the provisions of Act, if it has not already been initiated and will take such proceeding to its



logical conclusion within a period of three months, by giving due opportunity of hearing to all affected persons including the petitioner and Respondent Nos. 5 and 6 in accordance with the provisions of the Act.

The Writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

