

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9330 of 2018

Mintu Kumar Singh, S/o Ramavilas Singh, age about 39 years, resident of Village- Betaura, P.S.- Panapur, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner, Saran Division at Chapra.
2. The District Magistrate, Chapra.
3. The Sub Divisional Officer, Madhowrah, District Saran at Chapra.
4. The Circle Officer, Panapur, District Saran at Chapra.
5. Chandrika Prasad, S/o Suraj Prasad
6. Awadesh Prasad, S/o Late Mani Rai
7. Prabhu Rai, S/o Late Mani Rai
8. Binod Rai, S/o Late Mani Rai
9. Sarikh Pandit, S/o Bali Pandit
10. Krishna Pandit, S/o Saryoug Pandit
11. Rangila Pandit, S/o Bhutali Pandit
12. Shiv Kr Pandit, S/o Mhsaheb Pandit
13. Dularchand Pandit, S/o Late Ramagaya Pandit

All are resident of Village- Betoura, P.S.- Panapur, District Saran at Chapra.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vijay Kumar, Adv.

For the Respondent/s : Md. Fakhruddin Ali Ahmad- AC to AAG-12

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date : 19-06-2018

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 the public land, appertaining to Khata No.82, Survey Plot No.2, 36, 142, 316, 430, 610, 685, 712, 790, 832, 1008, situated in Village -Betaura, P.S.-Panapur, District-Saran.



The land in question is recorded in the revenue recorded as 'Gair Majaurwa Aam Rasta', but the same has been encroached upon by Respondent Nos. 5 to 13.

Since the Writ application was registered on 10.05.2018, 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 to 13.

It is submitted by learned counsel for the petitioner that the public road has been encroached upon and for removal of the encroachment made representations before the Respondent No.4, the Circle Officer, Panapur and Respondent No.2, the District Magistrate, Chapra, on 16.03.2018, as contained in Annexures-1 and 2 respectively. But till date neither any encroachment proceeding has been initiated, nor encroachment has been removed from the land in question. Hence, the present writ application.

It is submitted by AC to AAG-12 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/road and the same has been encroached upon, 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 and such proceeding will be taken to its logical conclusion within a time frame.

Having heard learned Counsels for the parties, 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 made before the Circle Officer as well as the District Magistrate as far as back on 16.03.2018, as gets reflected from Annexures-1 and 2, but there is nothing on record to suggest that either any proceeding has been initiated till date or any effort has been taken to come to the finding whether the land in question is a public land.

In the circumstances, the Respondent No.4, Circle Officer, Panapur is expected to examine the revenue records and if need be make spot verification, whereupon, if he finds that public road/land has been encroached upon, then he 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 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 to 13 in accordance with the provisions of the Act.

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

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

