

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13345 of 2018

Ramsewak Yadav, aged about 61 years, Son of Late Babu Lal Yadav, Resident of Village- Jakhar, Tole- Dhelhi, P.S.- Rosera, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The District Magistrate, Samastipur, Bihar.
3. The Sub Divisional Officer, Rosera, District- Samastipur.
4. The Circle Officer, Shivaji Nagar, District- Samastipur.
5. Ramesh Yadav, Son of Late Damodar Yadav,
6. Ram Chandra Yadav, Son of Late Rajpal Yadav, Nos. 5 and 6 residents of Village- Jakhar, Tole- Dhelhi, P.S.- Rosera, District- Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shyam Kishor Das

For the Respondent/s : Mr. Raj Kishore Roy -Gp18

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 13-07-2018

Heard learned counsels for the parties.

In view of the nature of order this Court intends to pass, this Court is neither inclined to issue notice to Respondent Nos. 5 and 6 nor to adjourn the matter for filing counter affidavit.

The present writ application has been filed for for a direction to the respondent authorities to get the encroachment removed from the public road appertaining to Plot No. 3558, Thana No. 102, Khata No. 603 situated in Circle Rosra, District Samastipur.

It is submitted by learned counsel for the petitioner that the petitioner has constructed a residential house on the land appertaining to Plot Nos. 552, 544 (old) and Plot Nos. 861, 862



and 863 (New) on a public road appertaining to Plot No. 3558 but the same has been encroached upon by private Respondent Nos. 5 and 6, hence the road has been blocked. The petitioner submitted an application before the Respondent No. 4, Circle Officer, Shivaji Nagar on 26.03.2018 for removal of the encroachment from the land in question. Thereafter, the petitioner submitted an application, as contained in Annexure-3A, under the RTI Act with regard to information of action being taken by the respondent authorities for removal of encroachment from the land in question. Petitioner also submitted an application in that regard before Respondent No. 3, Sub Divisional Officer, Rosra as well as to the Respondent No. 2, District Magistrate, Samastipur on 26.03.2018, but still no action has been taken. Hence, the present writ application.

Mr. Raj Kishore Roy, learned GP 18 submits that at present, he is not having any instruction whether a public road has been encroached upon, but if the public road has been encroached upon, an appropriate proceeding will be initiated by the Respondent No. 4, Circle Officer, Shivaji Nagar forthwith and the same will be taken to its logical conclusion within a time frame in accordance with the provisions of Bihar Public Land Encroachment Act (hereinafter referred to as the 'Act').



For initiating a proceeding under the Act, it should appear to the Collector under the Act from an application made by any person or upon an 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, an application was submitted by the petitioner before the Respondent No. 4, Circle Officer, Shivaji Nagar on 26.03.2018 with regard to the removal of encroachment but there is nothing on record to suggest that either encroachment proceeding has been initiated or encroachment from the land in question has been removed.

In the circumstances, it is expected from the Respondent No. 4, the Circle Officer, Shivaji Nagar to examine the issue and if need be, make spot verification whereupon, if it appears to him that the public land has been encroached upon, then he will initiate a proceeding under the Act, if it has already not been initiated, 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 the petitioner and Respondent Nos. 5 and 6 in accordance with the provisions of the Act.



This writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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