

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.359 of 2018

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Bechu Singh, Son of Late Biphan Singh Yadav, Resident of Village + P.O.-
Bhadhokhara, P.S.- Darigaon, District- Rohtas.

... .. Petitioner

Versus

1. The State of Bihar.
2. The District Magistrate, Rohtas.
3. The SDO, Sasaram, Rohtas.
4. The Circle Officer, Sasaram, Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kanhaiya Pandey, Adv.
For the Respondent/s : Mr. Raj Kishore Roy, GP-18

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 23-04-2018

Heard Mr. Kanhaiya Pandey, learned counsel for the
petitioner and Mr. Raj Kishore Roy, learned G.P.-18 for the
respondent-State.

Though, the present writ application was registered on
05.01.2018, but till date no counter affidavit has been filed, hence
in view of the nature of order this Court intends to pass, this Court
is not inclined to adjourn the matter any further.

The present writ application has been filed for a
direction to the respondent authorities to get the encroachment
removed from the flank of the public road i.e., N.H.-2,
appertaining to Khata No. 250, Plot No. 855, situated in Mauza
Bhadaura, District Rohtas.



It is submitted by learned counsel for the petitioner that the petitioner is resident of Village Bhadhokhara and his raiyati land, appertaining to Khata No. 26, Plot No. 857, 859 and 860, is situated adjacent to the land in question, which has been encroached upon, as a result of which, the ingress and egress of the petitioner from his raiyati land has completely been blocked. The land/road in question also connects the main Grand Trunk road.

For removal of encroachment from the land in question, the petitioner submitted an application before the respondent no.4, the Circle Officer, Sasaram on 23.03.2017, as contained in Annexure-2, and also transmitted a copy of the same to respondent no.2, District Magistrate, Rohtas, respondent no.3, the Sub-Divisional Officer, Sasaram, Rohtas and D.C.L.R., but no action has been taken. Thereafter, the petitioner submitted an application before Sub-Divisional Public Grievance Redressal Officer, Sasaram, whereupon Sub-Divisional, Public Grievance Redressal Officer asked respondent no.4, the Circle Officer, Sasaram to conduct an enquiry and submit a report in that regard. Thereafter, respondent no.4, the Circle Officer, after having conducted an enquiry on the land in question submitted a report to the effect that the land in question is the flank of the road, but certain persons are using the same for agricultural purposes, though, they have been



asked not to use the same and Officer-In-Charge has properly been instructed to take appropriate preventive measures. Hence, the petitioner is having no difficulty in reaching his plot.

It is further submitted that as per the report of the Circle Officer, it is admitted fact that public road has been encroached upon, but even then, respondent no.4, the Circle Officer, Sasaram chose not to initiate any proceeding under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act'), hence, the present writ application.

Learned G.P.-18 submits that at present, he is not having any instruction whether the land in question is a public land or not or whether the encroachment has been removed or not from the land in question, but if the land in question is a public land and the same has been encroached upon, then appropriate proceeding will be initiated and the same will be taken to its logical conclusion within a time frame.

Having heard learned counsels for the parties, this Court is of the view that for initiating a proceeding under the Act, it is not required that the Collector under the Act should come to a conclusive finding that the public land has been encroached upon.

For initiation of proceeding under Section 3 of the Act, it should appear 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 encroachment over public land.

In the present case, it appears from the order of the Sub-Divisional Public Grievance Redressal Officer that a report was submitted by respondent no.4, the Circle Officer, Sasaram suggesting that the flank of the road in question has been used by certain persons for agricultural purposes, but in spite of that, respondent no.4, the Circle Officer, Sasaram chose not to initiate any proceeding under the Act, which clearly suggests the abdication of jurisdiction by respondent no.4, the Circle Officer, Sasaram.

In the circumstances, respondent no.4, the Circle Officer, Sasaram is expected to examine the Revenue Records and if need be, conduct spot verification or get measurement of the land in question done, whereupon if it appears to him that the land in question is a public land and the same has been encroached upon, then he will initiate a proceeding under the Act forthwith, if it has already not been initiated, and will take such proceeding to its logical conclusion within a period of three months from its initiation, after giving due opportunity of hearing to all affected persons, in accordance with the provisions of the Act.



Accordingly, with the above observation and direction,
the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	25.04.2018
Transmission Date	

