

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2244 of 2017

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Shambhu Prasad Swarnkar @ Shambhu Prasad, Son of Late Narayan Prasad,
Resident of Ward No 25, P.O., P.S. and District- Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Bihar.
2. The District Magistrate, Supaul.
3. Sub-Divisional Officer, Supaul, District- Supaul.
4. Circle Officer, Anchal Supaul, District- Supaul.
5. The Superintendent of Police, Supaul.
6. Ranjeet Ram,
7. Praveen Ram
8. Raja Ram
9. Santosh Ram

Respondent Nos. 6 to 9 are sons of Late Jaleshwar Ram, Resident of Ward No 14, P.O.+P.S. and District- Supaul.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Nirbhay Kumar Singh, Adv.
For the Respondent/s	:	Ms. Rekha Kumari, AC to GP-18

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 14-08-2018

Heard learned Counsels for the petitioner and the
State.

The present writ application has been filed for a
direction to the respondent authorities to get the encroachment
removed from the public land/road appertaining to Khata
No.385, Plot No.617, Thana No.152, situated in Mauza-Kharail,
District-Supaul, which has been encroached upon by Private
Respondent Nos. 6 to 9.

Since the writ application has been registered on
09.02.2017, 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.6 to 9.

It is submitted by learned counsel for the petitioner that the petitioner purchased a piece of land through a registered Sale Deed No. 288 on 16.01.2014, appertaining to Khata No. 283, Plot No.616, Thana No. 152, situated in Mauza - Kharail, District-Supaul. Subsequently, it was mutated in the name of the petitioner and Jamabandi was created vide Jamabandi No.804 and thereafter the petitioner has been paying rent against the said land. On 01.12.2014, the father of Respondent Nos. 6 to 9 encroached upon the said public road/land by constructing a hut, as a result of which the ingress and egress of the petitioner has been obstructed. The petitioner submitted an application on 03.12.2014 before the Respondent No.5, the Superintendent of Police, Supaul. Thereafter, the petitioner submitted an application on 18.12.2014, before the Respondent No.2, the District Magistrate, Supaul, as contained in Annexure-1 with a prayer to get the encroachment removed from the land in question. Earlier also, the petitioner submitted an application before the Respondent No.4, the Circle Officer, Supaul on 03.12.2014. However, on the application of the petitioner, the



Superintendent of Police, Supaul made an inquiry in that regard and submitted a report vide Memo No.391, dated 01.02.2015, as contained in Annexure-2 to the District Magistrate, Supaul to the effect that needful action is required to be taken to get the encroachment removed from the land in question. In pursuance to the said report, the District Magistrate, Supaul, vide Letter No. 268-2, dated 22.02.2015, as contained in Annexure-3, directed Respondent No.3, the Sub-Divisional Officer, Supaul, to initiate a proceeding in accordance with law for removal of encroachment made by Jaleshwar Ram, the father of Private Respondent Nos. 6 to 9. In the meantime, on the application of the petitioner, the Circle Officer, Supaul directed the Circle Inspector to conduct an enquiry with regard to the encroachment over the land in question and to submit a report. In pursuance to the same, the Circle Inspector directed the Halka Karmchhari to do the same. Accordingly, the Halka Karmchhari submitted a report on 18.03.2015, as contained in Annexure-4, stipulating therein that the said encroachment has been made by Jaleshwar Ram and further recommended for initiation of proceeding for removal of the encroachment from the land in question, but even then, no action has been taken. Ultimately, on 08.06.2018, the petitioner submitted an application before Respondent No.2,



the District Magistrate, Supaul, as contained in Annexure-5, indicating therein that despite the order dated 22.02.2015, vide Letter No.268-2 passed by him, neither any proceeding has been initiated nor the encroachment has been removed from the said land, whereupon, the District Magistrate, Supaul, vide Letter No.899-2, dated 15.06.2016, directed the Sub-Divisional Officer, Supaul to remove the encroachment and submit compliance report in that regard. The petitioner also submitted a complaint before the Sub-Divisional Public Grievance Redressal Officer, Supaul, whereupon, the Sub-Divisional Public Grievance Redressal Officer, vide order dated 07.08.2016, as contained in Annexure-7, directed the Circle Officer, Supaul to get the issue expedited for removal of encroachment. But despite the direction given by the Sub-Divisional Public Grievance Redressal Officer, the Circle Officer did not take any action, whereupon, the petitioner again submitted an application before the District Magistrate, Supaul and Sub-Divisional Officer, Supaul on 11.11.2016, praying therein that despite the earlier order passed by the District Magistrate on 22.02.2015 and Public Grievance Redressal Officer's order dated 07.08.2016, no action with regard to the removal of encroachment has been taken by the Circle Officer, Supaul,



which gets reflected from Annexure-8. Thereafter, the District Magistrate, Supaul, vide Memo No.1746-2, dated 01.12.2016, directed the Sub-Divisional Officer, Supaul to get the encroachment removed and to inform him by 15.12.2016, which gets reflected from Annexure-9. However, it was submitted by the Circle Officer, Supaul before the Sub-Divisional Public Grievance Redressal Officer that Encroachment Case No. 08 of 2015-16 has been initiated. But till date neither the encroachment proceeding has been taken to its logical conclusion, nor the said encroachment has been removed from the land in question. Hence, the present writ application.

Learned counsel for the State submits that, at present, she is not having any instruction whether the land in question is a public road/land or Encroachment Case No.08 of 2015-16, has been concluded or not. However, he further submits that if encroachment proceeding with regard to the land in question has not been concluded till date, it will be taken to its logical conclusion within a reasonable time frame.

Having heard learned counsels for the parties, the issue reflects the state of affairs of State authorities as to how a person has to run from pillar to post for getting the encroachment removed from a public land. It appears that



despite the fact that the Circle Officer, Supaul came to know about the claim of petitioner regarding encroachment over a public land, no action was taken and now the encroachment proceeding has been kept pending since last three years, which suggests the callous manner of the Circle Officer, Supaul in discharging the statutory functions.

In the circumstances, the Respondent No.4, the Circle Officer, Supaul, is expected to take the proceeding of Encroachment Case No.08 of 2015-16 to its logical conclusion within a period of three months, after receipt/production a copy of this order, if it has not been concluded as yet, after giving due opportunity of hearing to all the affected persons, including the Respondent Nos. 6 to 9 and the Petitioner, under the provision of the Bihar Public Land Encroachment Act.

Accordingly, the writ application is disposed of.

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

