

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2455 of 2018

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Ramjee Prasad Rahul, Son of Late Domi Prasad, Resident of Village + P.O.-
Bhuswar, P.S.-Bibhutipur, District- Samastipur (Bihar).

... .. Petitioner

Versus

1. The State of Bihar.
2. Circle Officer, Bibhutipur, District- Samastipur.
3. Collector, District- Samastipur.
4. Ladu Lal Sharma,
5. Rambilash Sharma.
6. Ramsakal Sharma, All 4 to 6 are Sons of Late Kheli Sharma, R/o Village-
Khadiyahi, P.O.- Bibhutipur, District- Samastipur.
7. Jagdish Sah.
8. Umashanker Sah. Both 7 to 8 are Sons of Banarsi Sah, Residents of Village +
P.O.- Bhuswar, P.S.- Bibhutipur, District- Samastipur.
9. Kaleshwar Sah, S/o Ram Charitar Sah.
10. Shri Sah, Son of Banwari Sah, Both 9 to 10 are Residents of Village + P.O.-
Bhuswar, P.S. Bibhutipur, District- Samastipur.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Kapil Deo Singh
For the Respondent/s : Mr. Md. Khurshid Alam -Aag12

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 26-06-2018

Heard Mr. Arun Kumar, learned counsel for the
petitioner and Mr. Majid Mahbood Khan, learned AC to AAG-12
for the respondent-State.

Though, the present writ application was registered on
07.02.2018, 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 neither inclined to adjourned matter any further nor inclined to
issue notice to private Respondent Nos. 4 to 10.



The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the land, appertaining to Khata No. 2093, Plot Nos. 9337, 9336, 9341, 8955, 8943, situated in Mauza Bibhutipur, District Samastipur.

It is submitted by learned counsel for the petitioner that the land in question is recorded in the Revenue Record as Gairmazarua Aam, which is used as public road and pond, but the same has been encroached upon by private Respondent Nos. 4 to 10.

For removal of encroachment from the land in question, the petitioner submitted representations before Respondent No.2, the Circle Officer, Bibhutipur on 05.01.2016 and 08.08.2017, as contained in Annexure-1 and 1/A, but neither any proceeding under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to 'the Act') has been initiated nor the encroachment has been removed from the land in question. Hence, the present writ application.

Learned AC to AAG 12 submits that, at present, he is not having any instruction, but if the land in question is a public land and the same has been encroached upon, then Respondent No.2, the Circle Officer, Bibhutipur will initiate a proceeding



forthwith and will take such proceeding to its logical conclusion within a time frame.

Having heard learned counsel for the parties, this Court is of the view that the only *sine qua non* for initiation of proceeding under Section 3 of the Act is that 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, the petitioner had filed representations before Respondent No.2, the Circle Officer, Bibhutipur on 05.01.2016 and 08.08.2017, as contained in Annexure-1 and 1/A, but there is nothing on record to suggest that any proceeding has been initiated for removal of the encroachment from the land in question.

In the circumstances, it is expected from Respondent No.2, the Circle Officer, Bibhutipur to examine the Revenue Record and if need be, make spot verification, 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 initiated a proceeding 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 including the petitioner and private Respondent Nos. 4 to 10, 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	09.07.2018
Transmission Date	

