

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12815 of 2018

=====

Julami Bhagat, son of Late Jiyalal Bhagat, resident of village - Manihas
Kansi, Police Station - Simri, District - Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Darbhanga.
2. The Sub Divisional Officer, Sadar, Darbhanga.
3. The Circle Officer, Sadar, Darbhanga.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Manish Kumar No-2, Adv.
For the Respondent/s : Mr. Birendra Prasad Singh, AC to SC19

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date : 12-07-2018

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 PWD road which connects N.H.-57, Kansi to
Dalawan appertaining to New Plot Nos. 351, 352, 347, Thana
No. 117, Mauja-Shahapur Kansi, District – Darbhanga.

It is submitted by learned counsel for the petitioner
that for removal of encroachment from the land in question the
petitioner submitted representation before the Respondent No.3,



Circle Officer, Sadar, Darbhanga as well as Respondent No.2, the Sub-Divisional Officer, Sadar, Darbhanga, on 01.02.2018 and 05.02.2018 respectively, as contained in Annexure-1 series. Consequently, the Circle Officer called for a report from the Anchal Amin, who after measuring the land in question, submitted the report on 07.03.2018, as contained in Annexure-2, wherein, it has been stipulated that altogether 12 persons have encroached the land in question by constructing their houses and shops over the said land/road. Despite the specific report of the Anchal Amin, neither any proper proceeding under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') has been initiated nor the encroachment has been removed from the land in question. Hence, the present writ application.

It is submitted by learned Counsel for the State 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 Act will be initiated forthwith, if it has not been initiated as yet and the same 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 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, Respondent No.3, the Circle Officer was aware about the encroachment being made over the public road by the representation submitted by the petitioner on 01.02.2018, as contained in Annexure-1, but there is nothing on record to suggest that 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.3, Circle Officer, Sadar, Darbhanga is expected to examine the revenue records to find whether the land in question is a public land/road or not and if need be conduct spot verification, whereupon, if it appears to him 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 will take such proceeding to



its logical conclusion within a period of three months, by giving due opportunity of hearing to all affected persons, 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	

