IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3315 of 2018

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Aiyub Jawaid @ Md. Aryub Javed, son of Abdul Ajiz, resident of village - Loam, Police Station - Sadar, District - Darbhanga.

... ... Petitioner/s

Versus

1. The State of Bihar.
2. The Collector, Darbhanga.
3. The Sub Divisional Officer, Sadar, Darbhanga.
4. The Land Reforms Deputy Collector, Sadar, Darbhanga.
5. The Circle Officer, Sadar Block, Darbhanga.
6. The Officer-in-charge, Sadar Police Station, Darbhanga.
7. Abdul Salam @ Abdus Salam, son of Late Md. Zamil, resident of village - Loam, Police Station - Sadar, District - Darbhanga.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Girish Chandra Jha, Adv.

For the Respondent/s : Ms. Sanghmitra Ghosh, AC to GP-15

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date : 24-07-2018

Heard learned Counsels for the petitioner and the respondent-State.

The present writ application has been filed for a direction to the respondent authorities, particularly, Respondent No.5, to get the encroachment removed from the land appertaining to Thana No. 434, Khata No.2069, Plot No. 2168, situated in Mauza-Loam, District -Darbhanga.

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Since the Writ application was registered on 19.02.2018, 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 No.7.

It is submitted by learned counsel for the petitioner that the land in question is a road and it has been recorded in the Khatiyan as 'Anabad Sarva Sadharan', but the same has been encroached upon by Private Respondent No.7, Abdul Salam, by constructing cemented wall. In this connection, a proceeding under Section 133 of the Cr. P.C. has been initiated vide Land Dispute Case No.362 of 2012, wherein, Respondent No.3, the Sub-Divisional Officer, Sadar, Darbhanga vide order dated 26.03.2013, directed Respondent No.5, the Circle Officer, Sadar, Darbhanga to get the encroachment removed from the road in question, but the Circle Officer issued a notice vide Memo No. 1400, dated 14.10.2017, but till date, encroachment has neither been removed, nor any proceeding has been initiated with regard to the removal of encroachment under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act'). Hence, the present writ application.

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It is submitted by learned Counsel appearing on behalf of the respondent-State that, at present, she is not having any instruction whether the land in question is a public land/road or not, but if it is a public land 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 till date and the same will be taken to its logical conclusion within a time frame.

Considering the rival submissions of the parties, the petitioner is permitted to submit a representation before Respondent No.5, the Circle Officer, Sadar Block, Darbhanga, within a period of three weeks, whereupon, the Circle Officer will examine the revenue records and if need be will conduct spot verification, whereupon, if he finds 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. It is further expected from the Respondent No.5, the Circle Officer, Sadar, Darbhanga to take such proceeding to its logical conclusion within a period of three months, by giving due opportunity of hearing to all affected persons, including Respondent No.7 and the petitioner in accordance with law.

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The Writ application is, accordingly, disposed of with the observation aforesaid.

(Dinesh Kumar Singh, J)

Ashwini/-

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CAV DATE	
Uploading Date	
Transmission Date	

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