

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4573 of 2018

1. Shailesh Kumar Singh, S/o Sri Shiv Pujan Singh.
2. Ashok Singh @ Ashok Kumar Singh S/o Late Dayanand Singh
Both R/O Village-Sripal Basant, P.O. & P.S.-Garkha, District-Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Land Reforms Department
New Secretariat, Bihar, Patna.
2. The Collector, Saran at Chapra.
3. The Additional Collector, Saran at Chapra.
4. The Deputy Collector, Land Reforms, Saran.
5. The Circle Officer, Garkha, Saran.
6. Sanjeet Kumar Singh, S/o Late Shiv Nath Singh, R/o Village-Sripal Basant,
P.O. & P.S.-Garkha, District-Saran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Birendra Singh
Mr. Dhananjay Kumar Pandey
For the Respondent/s : Mr. Sajid Salim Khan, SC-25

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 24-07-2018 Heard Mr. Birendra Singh, learned counsel for the
petitioner and Mrs. Prakritita Sharma, AC to SC 25.

The present writ application has been filed for a direction to the Respondent Authorities to make a fresh measurement of the land in question, which is an Aam Rasta, and which has been encroached upon by Respondent No. 6, Sanjeet Kumar Singh and further prayer has been made for a direction to the Respondent No. 5, the Circle Officer, Garkha to dispose of the Measurement Case No. 66533 of 2015 pending before him.

Though the writ application does not stipulate the details of the land in question, however, it appears that the



Sanjeet Kumar Singh, Respondent No. 6 in the writ application, preferred CWJC No. 7414 of 2017 with a prayer for getting the encroachment removed from the public road appertaining to Plot No. 1270, situated in village Sripal Basant, Thana No. 468, Circle- Garkha, District- Saran, which was encroached upon by Respondent No. 8 to 10 of the said writ application, namely, Shailesh Kumar Singh, Byas Singh and Ashok Singh respectively, out of whom, Shailesh Kumar Singh and Ashok Singh @ Ashok Kumar Singh are the petitioners in the present writ application. Further prayer has been made for disposal of the Measurement Case No. 66533 of 2015, which has been initiated for conducting the measurement of land appertaining to Plot No. 1285 and 1286. The prayer made in CWJC No. 7414 of 2017 in Paragraph No.1, which reads as follows:

“(i) For issuance of writ in the nature of command directing the respondents to remove the encroachment from the Aam Rasta (Plot No. 1270) which has been encroached by Respondent No. 8 to 10 after initiating encroachment proceeding.

(ii) For issuance of writ in the nature of command directing the respondents to dispose of the Measurement Case No. 66533 of 2015 forthwith which has been filed by petitioner for Measurement of his Khatiyani Land bearing plot No. 1285 and 1286 for which on the direction of Circle Officer



petitioner has already deposited Rs. 1370/- cost of Amin.

(iii) For issuance of writ in the nature of command directing the respondents 6 and 7 to give police protection to the petitioner in view of the tense situation between the petitioner and private respondents over the disputed land.

(iv) For any other writ/writs for which petitioner deemed entitled to.”

The said writ application was disposed of by this Court vide order dated 29.11.2017 with a direction to Respondent No. 5, The Circle Officer, Garkha to examine the issue and if need be, conduct spot verification and on doing so, if it appears to him that the public land has been encroached upon then he will initiate a proceeding under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as ‘the Act’) within two weeks of the receipt/production of a copy of the order and will take the encroachment as well as measurement proceeding to its logical conclusion within a period of three months thereafter, after giving due opportunity of hearing to all affected persons in accordance with the provisions of the Act.

Similar prayer has been made in present writ application. Since this Court, in CWJC No. 7414 of 2017, has already directed to conclude the measurement proceeding, as well



as to initiate a proceeding under the Act if it appears to the Circle Officer, Garkha that encroachment has been made on the public road, and therefore in such circumstances, there is no need of passing fresh order.

However from the pleadings of the present writ application, it does not appear that till date, any proceeding under the Act has been initiated with regard to the said land in question.

In the circumstances, the present writ application is disposed of with a direction to the Respondent No. 5, Circle Officer, Garkha to conclude both the proceedings of the Measurement Case No. 66533 of 2015 as well as the encroachment proceeding, if they have already been initiated, but not concluded, in consonance with the purport of the order dated 29.11.2017 passed in CWJC No. 7414 of 2017, within period of three months from the date of receipt/production of a copy of this order.

(Dinesh Kumar Singh, J)

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