

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6024 of 2018

Vijay Kumar Mahto, S/o of Shivnandan Mahto, Resident of Villlage- Ekdara,
P.S.- Bibhutipur, District- Samastipur.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Deaprtment of Revenue and Land Reforms, Bihar, Patna.
2. The Collector- Cum-District Magistrate, Samastipur.
3. The Additional Collector, Public Grievance Redressal Cell, Samastipur
4. The Sub-Divisional Officer, Public Grievance Redressal Cell, Rosera, Samastipur.
5. The Circle Officer, Bibhutipur, Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. J.N. Thakur, Adv.

For the Respondent/s : Mr. Sajid Salim Khan, SC-25

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 02-08-2018

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, to Respondent No. 5, the Circle Officer, Bibhutipur to get the encroachment removed from public road, appertaining to Khata No. 397, Plot No.7939, situated at Mauza- Ekdara, P.S. Bibhutipur, District – Samastipur.

It is submitted by learned counsel for the petitioner that the land appertaining to Plot No. 7916 is situated adjacent to the said public land/road, but the same has been encroached



upon by some encroachers, as a result, the ingress and egress of the petitioner has been obstructed. Hence, the petitioner prays for demarcation of the land in question vis-a-vis, his land and to get the encroachment removed from the land in question, after initiating a proper proceeding under the Provision of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act'). It is further submitted that despite the order dated 17.01.2017, passed by the Respondent No. 4, the Sub-Divisional Public Grievance Redressal Officer, Rosera, as contained in Annexure-2 series, and the undertaking of the Respondent No. 5, the Circle Officer, Bibhutipur, in a proceeding initiated in FIR No. 07 of 2017, under Section 107 of the Cr.P.C, against the encroachers, the demarcation of the land in question has not been made till date. Thereafter, vide order dated 07.04.2017, as contained in Annexure-3 series, the First Appellate Authority cum Additional Collector (Public Grievance Redressal), Samastipur, not only affirmed the order of the Respondent No. 4, the Sub-Divisional Public Grievance Redressal Officer, Rosera, but also directed the Respondent No. 5, the Circle Officer, Bibhutipur to initiate a proper proceeding under the Act and further directed to get the encroachment removed from the land in question. Similarly, the Second Appellate Authority cum



the District Magistrate, Samastipur, vide order dated 19.07.2017, as contained in Annexure-4 series, also directed the Respondent No. 5, the Circle Officer, Bibhutipur to get the encroachment removed from the land in question. But till date, neither any proceeding has been initiated nor the encroachment has been removed from the land in question. Hence, the present writ application.

It is submitted by learned SC 25 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 and the same will be taken to its logical conclusion within a reasonable time frame.

In the circumstances, in view of the fair stand of learned SC 25, it is expected from the Respondent No. 5, the Circle Officer, Bibhutipur to examine the revenue records and if need be, to 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, after due demarcation, on submission of required demarcation fee by the petitioner, by giving due opportunity of hearing to all affected persons, including the petitioner, in accordance with the provisions of the Act.

The Writ application is, accordingly, disposed of with the aforementioned direction and observation.

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

