

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6013 of 2018

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Arvind Kumar Mahto @ Arvind Mahto, Son of Late Ram Ratan Mahto,
resident of village - Kiratpur, P.O. - Isapur, P.S. - Bhagwanpur, District -
Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar.
 2. The Collector, District - Begusarai.
 3. The Circle Officer, Bhagwanpur, District - Begusarai.
 4. The Sub-Divisional Officer, Teghra, District - Begusarai.
 5. Sushil Mahto,
 6. Ram Lakhan Mahto,
- Both 5 & 6 are sons of Basudeo Mahto, Residents of village - Kiratpur, P.O.
Isapur, P.S. & Block Bhagwanpur, District Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kapil Deo Singh, Adv.
For the Respondent/s : Mr. Md. Khurshid Alam, AAG-12

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 03-08-2018

Learned counsel for the petitioner is permitted to
change the seriatim of respondents in the array of respondent.

Heard Mr. Kapil Deo Singh, learned counsel for the
petitioner and Mr. Majid Mehboob Khan, learned AC to AAG 12
for the respondent-State.

Though, the present writ application was registered on
30.03.2018, 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 not inclined either to adjourn the matter any further, or to issue
notice to private Respondent Nos. 5 and 6.



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. 739, Plot No. 1838, which is recorded in the Revenue Record as a P.W.D. Road, but the same has been encroached upon by private Respondent Nos. 5 and 6 and others.

It is submitted by learned counsel for the petitioner that for removal of the encroachment from the land in question, a public petition was submitted before Respondent No.3, the Circle Officer, Bhagwanpur on 21.09.2017, as contained in Annexure-1. Subsequently, a public petition was also submitted before Sub-Divisional Public Grievance Redressal Authority and before Respondent No.2, the District Magistrate, Begusarai, on 30.12.2017, as contained in Annexure-2(series). Subsequently, Panchayat Representatives started constructing the temple on the part of the land in question, but till date neither any 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.

Learned AC to AAG 12 submits that at present, he is not having any instruction, whether any proceeding has been initiated



or not, or whether the encroachment has been removed from the land in question or not, but if the land in question is a public land and the same has been encroached upon, then appropriate proceeding will be initiated for removal of the same and the said proceeding will be taken to its logical conclusion within a time frame.

Having heard learned counsel for the parties, this Court is of the view that this Court is burdened with the writ applications with regard to encroachment over the public land since the Collector under the Act is not discharging the statutory duty as incorporated under the Act.

The only pre-condition for initiation of a proceeding under Section 3 of the Act is that it should appear to the Collector under the Act either 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 the encroachment over the public land.

In the present case, it appears that Respondent No.3, the Circle Officer, Bhagwanpur came to know about the said encroachment over the public land as far back as on 21.09.2017, through public representation submitted before him, but there is



nothing on record to suggest that any proceeding has been initiated or the encroachment has been removed from the land in question.

In the circumstances, it is expected from Respondent No.3, the Circle Officer, Bhagwanpur to examine the Revenue Record, if need be, conduct 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 initiate a proceeding under the Act forthwith, if it has already not been initiated, and will take such proceeding to its logical conclusion within a period of three months of its initiation, after giving due opportunity of hearing to all affected persons including the petitioner and private Respondent Nos. 5 and 6, in accordance with the provisions of the Act.

Accordingly, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/Deepak/-

AFR/NAFR	
CAV DATE	
Uploading Date	16.08.2018
Transmission Date	

