

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15881 of 2018

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Ram Ekbal Singh, Son of Late Ram Swarup Singh, Resident of Village-Kanth Chapra, P.s.-Pipra, District-East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Old Secretariat, Bihar, Patna.
2. The Principal Secretary, Land Reforms and Revenue Department, Government of Bihar, Patna.
3. The Commissioner,.....
4. The District Magistrate, East Champaran.
5. The Sub-Divisional, Lok Shikayat Niwaran Padadhikari, Motihari, Sadar, East Champaran.
6. The Deputy Collector (L.S.N.) First Appellate, Tribunal, East Champaran
7. The Circle Officer, Kotwa, District-East Champaran.
8. Shivjee Sharma, Son of Ram Mangal Chaudhur, Resident of Kanth Chhapra, P.S.-Pipra, District-East Champaran.
9. Ram Kishore Sharma, Son of Ram Mangal Chaudhur, Resident of Village-Kanth Chhapra, P.s.-Pipra, District-East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Madhav Jha, Adv.
For the Respondent/s : Mr. Rishi Raj Sinha, SC-19

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date : 13-08-2018

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

Learned counsel for the petitioner is permitted to make necessary correction in the writ application with regard to Respondent No.7.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the Gair Majarua Aam Land, appertaining to Plot No.169, Khata No.65, situated at Village - Kanth Chhapra,



Circle – Kotwa, P.S.- Pipra, District – East Champaran.

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 Nos.8 and 9.

It is submitted by learned counsel for the petitioner that the land in question is used by the petitioner and the public at large as a public road. On an application submitted by the petitioner, the Respondent No.7, the Circle Officer, Kotwa, directed the Anchal Amin and the Revenue Karmchari to enquire the matter and submit the report. Whereupon, the Circle Amin as well as the Revenue Karmchari submitted the report before the Circle Officer, Kotwa, as contained in Annexure-1, to the effect that the land in question is 'Gair Majarua Aam' public land and the same has been encroached upon by the Private Respondent Nos. 8 and 9. But even then, no proceeding has been initiated as a result, the petitioner submitted another representation before the Respondent No.4, the District Magistrate, East Champaran, as contained in Annexure-2 series. Thereafter, the petitioner made a complaint before the Sub-Divisional Public Grievance Redressal Authority, East Champaran, who vide order dated 09.08.2017, as contained in Annexure-3, directed the Respondent No.7, the Circle Officer,



Kotwa to conduct the enquiry as per the provisions of Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') and submit a compliance report within twenty one days. Thereafter, the petitioner filed an appeal before the First Appellate Authority, Public Grievance Redressal-cum the Additional Collector, East Champaran, who vide order dated 04.11.2017, as contained in Annexure-4, directed the Circle Officer, Kotwa to initiate a proceeding and get the encroachment removed within a period of three weeks in pursuance to the order of Sub-Divisional Public Grievance Redressal Authority. But till date, neither any encroachment proceeding has been initiated with regard to the land in question, nor the encroachment has been removed from the land in question. Hence, the present writ application.

It is submitted by learned SC-19 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 Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') will be initiated forthwith, if it has not been initiated and the same will be taken to its logical conclusion within a time frame.



The sine qua non for initiating a proceeding for removal of encroachment 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.

In the present case, it appears from Annexure-1 that on the direction of the Circle Officer, Kotwa, the report was submitted by the Circle Amin and the Revenue Karmchari to the effect that the land in question is a public land and it is used for public purposes and the same has been encroached upon, but there is nothing on record to suggest that any proceeding for removal of encroachment has been initiated till date.

In the circumstances, the Respondent No.7, the Circle Officer, Kotwa is expected 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, by giving



due opportunity of hearing to all affected persons, including Respondent Nos.8 and 9 and the petitioner, in accordance with the provisions of the Act.

Accordingly, the writ application stands disposed .

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

