

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.464 of 2017

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Ajay Kumar Singh, S/o Shri Bhagwan Singh, Resident of Village + P.O.-
Jamorhi, P.S.- Bikramganj, District- Rohtas (Sasaram).

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Collector, District - Rohtas (Sasaram).
3. The Sub-Divisional Officer, Bikramganj, District- Rohtas (Sasaram).
4. The Circle Officer, Bikramganj, District- Rohtas (Sasaram).
5. Ram Sundar Singh, S/o Late Nagina Singh.
6. Kedar Singh, S/o Late Dhari Singh.
7. Shankar Singh, S/o Late Nanhak Singh.
8. Mukesh Singh, S/o Shri Yadav Singh.
9. Vivek Singh, S/o Shri Yadav Singh, Respondents No. 5 to 9 Residents
of Village + P.O- Jamorhi, P.S.- Bikramganj, District- Rohtas
(Sasaram).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sudarshan Sharma, Advocate
Mr. Madhu Prasun, Advocate
For the Respondent/s : Mr. Rishi Raj Sinha -SC19
Mrs. Archana, AC to SC19

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**
ORAL ORDER

02/ 09-08-2018

Heard Mr. Sudarshan Sharma, learned counsel

for the petitioner and Mrs. Archana, learned AC to SC-19 for the
State respondents.

This writ application has been registered on
13.01.2017 but no counter affidavit has been filed till date.
Moreover, in view of the nature of order this Court intends to
pass, this Court is neither inclined to adjourn the matter any
further nor to issue notice to private respondent nos. 5 to 9.



The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the public road situated in front of the residential house of the petitioner.

It is submitted by learned counsel for the petitioner that the residential house of the petitioner is situated on the land appertaining to Khata No. 127, Plot No. 1138 and in front of the same there is a public road but the same has been encroached upon by private respondent nos. 5 to 9. The petitioner submitted representation before Respondent No. 4, Circle Officer, Bikramganj, District – Rohtas on 05.02.2002 , as contained in Annexure-1 and thereafter on 13.02.2014 the uncle of the petitioner submitted representation, as contained in Annexure-3. Consequently, the road in question was inspected by Halka Karamchari and he submitted report to the Circle Officer on 17.02.2014, as contained in Annexure-3 suggesting that the encroachment has been made on the land in question. Consequently, the road in question was inspected and measured by Circle Amin and he submitted the report to the Circle Officer on 14.07.2014, as contained in Annexure-4 suggesting that the road in question has been encroached upon by private respondent nos. 5 to 9, but neither any proceeding has been initiated under



Bihar Public Land Encroachment Act, 1956 nor the encroachment has been removed. Hence, the present writ application.

Learned AC to SC-19 submits that, at present, she is not having any instruction whether any encroachment proceeding has been initiated or not, and if initiated, whether it has been concluded or not and she further submits that if a public road has been encroached upon then appropriate direction will be issued to Respondent No. 4, Circle Officer, Bikramganj to initiate a proceeding and conclude the same within a reasonable time frame.

Having heard the learned counsels for the parties, this Court is of the view that for initiation of proceeding, the only pre-condition under Section 3 of the Bihar Public Land Encroachment Act, 1956 is that if it appears to the Collector under the Act from an application made or from the information received that any person has encroached upon a public land or is responsible for continuance of any encroachment upon any public land. In the present case, Respondent No. 4, Circle Officer, Bikramganj, came to know about the encroachment on the land in question on 17.02.2014 and thereafter on 14.07.2014 when Halka Karamchari and Circle Amin submitted their report with regard to the encroachment being made by private respondent nos. 5 to 9,



but there is nothing on record to suggest that the encroachment has been removed.

In the circumstances, it is expected from Respondent No. 4, Circle Officer, Bikramganj to examine the revenue records, if need be conduct spot verification and if it appears to him that the public road has been encroached upon, then he will initiate a proceeding under the provisions of Bihar Public Land Encroachment Act, 1956 forthwith, if it has already not been initiated, and will take such proceeding to its logical conclusion in accordance with the provisions of the Act within a period of four months from the date of receipt/production of a copy of this order, after giving due notice to all affected persons including private respondent nos. 5 to 9 and the petitioner.

Accordingly, with the aforesaid observation and direction, this Writ application is disposed of.

(Dinesh Kumar Singh, J)

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