

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3781 of 2018

1. Manoj Thakur, Son of Ram Sakal Thakur.
2. Jaleshwar Singh, Son of Late Sri Ram Saran Singh. Both are Residents of Village-Machhaha, Post Office -Bhasar Madhhaha, Police Station-Sitamarhi, District-Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Sitamarhi, District-Sitamarhi.
2. The Sub-Divisional Officer, Sitamarhi, District -Sitamarhi.
3. The Circle Officer, Dumra, District-Sitamarhi.
4. Nawal Sah, Son of late Bilash Sah.
5. Vijay Singh, Son of late Jogan Singh.
6. Brahmdeo Singh, Son of Late Mahabir Singh
7. Basdeo Singh, Son of Late Diplal Singh.
8. Sahdeo Singh, Son of late Diplal Singh.
9. Mahadeo Singh, Son of late Diplal Singh.
10. Ram Eknal Thakur, Son of Late Rameshwar Thakur.
11. Lakshmi Singh, Son of Rijhan Singh. Sl. No. 4 to 11 are Residents of Village-Machhaha, Post Office -Bhasar Machhaha, Police Station -Sitamarhi, District -Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Uday Kumar
For the Respondent/s : Mr. Rishi Raj Sinha, SC 19

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 18-07-2018

Heard Mr. Uday Kumar, learned counsel for the petitioner and Mr. Akhilesh Kumar Sinha, learned AC to SC 19 for the respondent-State.

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. 4 to 11.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment



removed from the public land/road, appertaining to Plot No. 296, Thana No. 360, situated at Mauza Bhasar, Circle Dumra, District Sitamarhi.

It is submitted by learned counsel for the petitioners that the land in question is a public land/road, which is being used by public at large, but the same has been encroachment upon by private Respondent Nos. 4 to 11.

For removal of the encroachment from the land in question, a public petition was submitted before Executive Magistrate, Sitamarhi on 13.05.2014, as contained in Annexure-P/1, and thereafter before District Magistrate, Sitamarhi. However, on direction of Respondent No. 3, the Circle Officer, Dumra, vide letter no.422, dated 06.06.2014, directed the Anchal Amin to conduct the measurement of the land in question and to submit a report to that effect, whereupon Circle Amin after measuring the land in question, submitted a report to the Circle Officer, as contained in Annexure-2, which suggests that the land/road in question has been encroached upon by private Respondent Nos. 4 to 11, 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.



Learned AC to SC 19 submits that at present, he is not having any instruction whether the land in question is a public land or not, but if the public land has been encroached upon then appropriate proceeding, under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') will be initiated and the said proceeding will be taken to its logical conclusion within a time frame.

Having heard learned counsel for the parties, there is nothing on record to suggest that any application was submitted by the petitioner before Respondent No.3, the Circle Officer, Dumra, who is Collector under the Act, for getting the encroachment removed from the land in question. However, the report submitted by Circle Amin to the Circle Officer suggests that encroachment has been made over the land in question.

For initiation of the proceeding, the only pre-condition is that it should appear to the Collector under the Act from an application made by any person or upon information received from any sources that a person has made or is responsible for the continuation of the encroachment over the public land.

In the present case, in view of the report of the Circle Amin, prima facie, it appears that the Circle Officer ought to have initiated a proceeding under the Act, but there is nothing on record



to suggest that any proceeding has been initiated or encroachment has been removed from the land in question till date.

In the circumstance, the petitioner is permitted to submit an application before Respondent No.3, the Circle Officer, Dumra within a period of three weeks from the date of receipt/production of a copy of this order, when it expected from Respondent No.3, the Circle Officer, Dumra to examine the Revenue Records, and 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 forthwith, if it has already not been initiated as yet, and will take such proceeding to its logical conclusion within a period of three months from its initiation, after giving due notice to all affected persons, including the petitioner and private Respondent Nos. 4 to 11, in accordance with the provisions of the Act.

Accordingly, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

