

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2684 of 2018

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Dhananjay Singh, Son of Ramdhari Singh, Resident of Village-Gadi Katauna,
P.S.-Malaypur, District-Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Rural Works, Department, Bihar, Patna.
3. The District Magistrate, Jamui.
4. The Sub-Divisional Officer, Jamui.
5. Circle Officer, Brhat, Distict-Jamui.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Sinha
For the Respondent/s : AC to GP10

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 13-02-2018

Heard learned counsels for the parties.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the public land appertaining to Khata No. 458, Plot No. 1025, which is recorded as 'Gairmajarua Malik' in Khatian, as contained in Annexure 1, and is being used as playground and Yatri shed which was constructed in the year 1990-91.

It is submitted by learned counsel for the petitioner that the public petition, as contained in Annexure 2, was submitted before the respondent no. 3, District Magistrate, Jamui for removal of encroachment but no action has been taken. A certificate of Panchayat Secretary, Katauna dated 23.1.2018, as contained in Annexure 3 has been brought on record which



suggests that the Yatri shed has been constructed on the land in question under Scheme No. 13 of 1990-91. It is further submitted that the land in question is a public land.

A.C. to G.P. 10 submits that he is not having any instruction in the matter but he further submits that if the land in question is a public land then appropriate proceeding will be initiated under the Bihar Public Land Encroachment Act (hereinafter referred to as the 'Act') and the same will be taken to its logical conclusion.

Considering the rival submissions of the parties, it appears that there is nothing on record to suggest that any application for initiating a proceeding under the Act was ever submitted by the petitioner before the respondent no. 5, Circle Officer, Barhat.

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

Though an application was submitted before the respondent no.3, the District Magistrate, Jamui but from the copy



of Khatiyan as contained in Annexure 1, which is absolutely not legible, rendering this Court handicapped to perceive whether the land in question is a public land or not.

In the circumstances, the petitioner is given liberty to submit a fresh representation before the respondent no. 5, Circle Officer, Barhat within a period of three weeks from the date of receipt/production of a copy of this order with a prayer for removal of encroachment from the land in question and it is expected from the respondent no. 5, Circle Officer, Barhat to examine the issue and if need be, to conduct spot verification on the land in question, and on doing so, if it appears to him that the public land has been encroached upon, then he will initiate the proceeding under the Act forthwith if it has not been initiated and will take such proceedings to its logical conclusion within a period of three months thereafter, after giving due opportunity of hearing to all affected persons in accordance with the provisions of the Act.

This writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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