

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7918 of 2018

Uma Shankar Lal, Son of Chhattu Lal, Resident of Ward No.-13, Khangaon,
Anchal - Koilwar, P.S.-Chandi, District -Bhojpur.

... .. Petitioner

Versus

1. The State of Bihar.
2. District Magistrate, Bhojpur at Arrah.
3. Sub Divisional Magistrate, Arrah Sadar, District - Bhojpur.
4. Anchal Adhikari, Koilwar Anchal, District - Bhojpur.
5. Station House Officer, Chandi Police Station, District - Bhojpur.

... .. Respondent/s

Appearance :

For the Petitioner : Mr. Naresh Chandra Verma, Adv.
For the Respondents : Mr. Md. Khurshid Alam, AAG-12

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 02-05-2018

Heard Mr. Naresh Chandra Verma, learned counsel for
the petitioner and Mr. Majid Mahmood Khan, learned AC to AAG-
12 for the respondent-State.

Though, the present writ application was registered on
23.04.2018, but considering the nature of order this Court intends
to pass, this Court is not inclined to adjourn the matter any further.

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. 8802,
situated in Village Khangaon, Circle Koilwar, District Bhojpur.

It is submitted by learned counsel for the petitioner that
the land in question is the public road and west to the said plot, the
raiya land of the petitioner, appertaining to Plot No. 8896, under



Ward No. 13, situated in village Khangaon, Circle Koilwar, District Bhojpur, is situated and due to encroachment made over the land in question the ingress and egress of the petitioner from his raiyati land has been blocked. For removal of the encroachment from the land in question, the petitioner submitted a representation before respondent no.3, the Sub-Divisional Magistrate, Arrah on 06.03.2013, as contained in Annexure-1, whereupon respondent no.3, the Sub-Divisional Magistrate, Arrah, vide Letter No. 596, dated 08.03.2013, as contained in Annexure-1(A), directed respondent no.4, the Circle Officer, Koilwar to take necessary action. The petitioner also submitted an application before respondent no.2, the District Magistrate, Bhojpur under the Public Grievance Redressal Act, which was also transmitted to respondent no.4, the Circle Officer, Koilwar for taking necessary action. Subsequently, respondent no.4, the Circle Officer, Koilwar called for a report from the Revenue Karamchari, as well as from the Circle Inspector after making spot verification. During enquiry, it was found that the public road has been encroached upon by Karia Ram and Nehru Ram and a report to that effect was submitted to respondent no.4, the Circle Officer, Koilwar on 02.11.2013, as contained in Annexure-2. Thereafter respondent no.4, the Circle Officer, Koilwar, vide letter dated 19.02.2014, as



contained in Annexure-3, requested the Station House Officer, Chandi Police Station for getting the encroachment removed from the land in question. Again, an application was submitted before respondent no.3, the Sub-Divisional Magistrate, Arrah on 03.01.2018, as contained in Annexure-4 and before A.D.M, Bhojpur on 15.02.2018, as contained in Annexure-5 for removal of the encroachment from the land in question, but till date neither any encroachment proceeding has been initiated nor the encroachment from the land in question has been removed. Hence, the present writ application.

Learned AC to AAG-12 submits that at present, he is not having any instruction, but if it is found that 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 such proceeding will be taken to its logical conclusion within a time frame.

Considering the rival submissions of the parties, this Court is of the view that *sine qua none* for initiation of a proceeding under Section 3 of the Act, 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 any



person has made or is responsible for the continuance of the encroachment over the public land.

In the present case, initially an application was submitted before respondent no.3, the Sub-Divisional Magistrate, Arrah on 06.03.2013, as contained in Annexure-1, which was transmitted to respondent no.4, the Circle Officer, Koilwar, vide Letter No. 596, dated 08.03.2013, as contained in Annexure-1(A) and thereafter, on 02.11.2013, a report of Revenue Karamchari and Circle Inspector was submitted before respondent no.4, the Circle Officer, Koilwar, but there is nothing on record to suggest that any proceeding under the Act has been initiated for removal of the encroachment from the land in question.

In the circumstances, it is expected from respondent no.4, the Circle Officer, Koilwar to examine the Revenue Records and if need be, conduct spot verification and measure the land in question, 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 the same has already not been initiated, and take such proceeding to its logical conclusion within a period of three months from its initiation, after giving due opportunity of hearing to all affected persons, in accordance with the provisions of the Act.



Accordingly, with the above observation and direction,
the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	07.05.2018
Transmission Date	

