

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1648 of 2018

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Pawan Kumar Jha, Son of Sri Lal Jha, Resident of Basaith Chanpura (Ward No.3), P.S.- Benipatti, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Secretary, Water Resources Department, Bihar, Patna.
3. The Executive Engineer, Flood Control Project Monitoring Circle, Water Resources Dept., Patna.
4. The Collector-cum-DM, Madhubani.
5. The Executive Engineer, Flood Control, Divn-1, Jhanjharpur.
6. The Sub Divisional Officer, Banipatti, Dist- Madhubani.
7. The Land Reforms Deputy Collector, Benipatti, Madhubani.
8. The Circle Officer, Benipatti, Dist- Madhubani.
9. The Officer, Incharge, Benipatti, P.S. & Dist- Madhubani.
10. Rama Raut, S/o Late Gopal Raut,
11. Saini Raut, Son of Late Nepal Raut,
12. Hare Ram Raut, S/o Late Nirdhan Raut,
13. Dani Raut, Son of Late Palki Raut,
14. Mahinder Sah, S/o Late Sitai Sah,
15. Yugal Raut, S/o Late Gobardhan Raut,
16. Subhash Rai, Son of Late Rameshwar Raut, Nos. 10 to 16 are residents of Village- Banpura, East, P.O.- Dhanush Chanpuri, P.S.- Benipatti, Dist- Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Randhir Kumar No.1, Adv.
For the Respondent/s : Mr. Rewati Kanth Raman, AC to SC-11

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 09-02-2018 Heard learned Counsels for the petitioner and the respondent-State.

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. 10 to 16.

The present Writ application has been filed for a direction to respondent authorities to get the encroachment removed from



the Ring Bandh situated on the land appertaining to Thana No.132, Khata No.523, Plot Nos. 1118 and 1119, which is being used as Aam Rasta by the petitioner and villagers at large.

It is submitted by learned Counsel for the petitioner that Ring Bandh was constructed to protect the villagers of the area from flood. The said Bandh was constructed by Water Resources Department and the embankment of the Bandh was being used as public road by the villagers at large including the petitioner. The petitioner submitted several representations before the public authorities, but no action has been taken. On 09.09.2016, the petitioner submitted a representation before the Sarpanch of the Village, a copy of which was forwarded to the respondent no.8, the Circle Officer,, Sub-Divisional Officer, Benipatti and the District Magistrate, Madhubani. A public petition dated 12.09.2016 was transmitted through registered post to respondent no.2, the Secretary, Water Resources Department, Govt. of Bihar, as contained in Annexure-2. Thereafter, the petitioner submitted an application on 27.10.2016 before respondent no.4, the District Magistrate, Madhubani, as contained in Annexure-4, but till date no action has been taken with regard to the removal of the encroachment. Hence, the present Writ application.



It is submitted by learned Counsel appearing on behalf of the respondent-State that at present he is not having any instruction whether the public land has been encroached upon, but if it 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 till date and the same will be taken to its logical conclusion within a time frame.

Having heard learned Counsels for the parties, this Court is of the view that for initiation of proceeding under the Act the pre-condition is submission of an application 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.

No doubt, in the present case, several representations were submitted before the different authorities, but there is nothing on record to suggest that any proceeding has been initiated till date.

Considering the rival submissions of the parties the petitioner is permitted to submit a representation before respondent no.8, the Circle Officer, Benipatti within a period of three weeks, whereupon, the Circle Officer is expected to



examine the revenue records and make spot verification and if he finds that public road/land has been encroached upon, then he will initiate a proceeding with regard to the land in question under the provisions of Act, if it has not already been initiated and it is further expected from him to take such proceeding to its logical conclusion within a period of three months thereafter, by giving due opportunity of hearing to all affected persons including respondent nos. 10 to 16 under the Act.

The Writ application is, accordingly, disposed of with the observation aforesaid.

(Dinesh Kumar Singh, J)

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