

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1524 of 2018

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Rakesh Raushan, son of Late Sone Lal Sahani, resident of Village and P.O.-
Desari, P.S. + Anchal- Bibhutipur, District- Samastipur.

.... Petitioner/s

1. Versus

1. The State of Bihar, through the Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
2. The District Magistrate-cum- Collector, Samastipur.
3. The Sub Divisional Magistrate, Rosera, Samastipur.
4. The Deputy Collector, Land Reforms, Rosera, Samastipur.
5. The Circle Officer, Bibhutipur, District- Samastipur.
6. Naresh Chaudhary, Son of Chano Chaudhary, resident of Village+ P.O.-
Desari, P.S.+ Anchal- Bibhutipur, District- Samastipur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhay Kumar Jha, Advocate

For the Respondent/s : Mr. Md. Khurshid Alam- AAG12

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

02/ 12-02-2018

Heard Mr. Abhay Kumar Jha, learned

counsel for the petitioner and Mr. Fakhruddin Ali Ahmad, learned

AC to AAG-12.

In view of nature of order this Court intends to pass, this Court is not inclined to adjourn the matter any further or issue notice to private respondent no. 6.

The present Writ application has been filed basically for a direction to the respondent authorities to get encroachment removed from the public road appertaining to Khata No. 228, Plot No. 2771 situated in Village – Desari, Circle –



Bibhutipur, District – Samastipur, as the same has been encroached upon by respondent no. 6.

It is submitted by learned counsel for the petitioner that on Plot No. 2759 the residential house of the petitioner is situated and in front of the house of the petitioner on Plot No. 2771, Khata No. 228 a public road is situated, which is recorded in the Cadastral Survey Khatiyan as ‘Gairmajarua Aam’ but the same has been encroached upon by respondent no. 6 as a result of which egress and ingress of the petitioner has substantially been obstructed.

The petitioner submitted an application on 16.10.2017 before Public Grievance Redressal Authority. Consequently, respondent no.5, Circle Officer directed Anchal Amin to measure the land in question. The Anchal Amin measured the land and found that there is encroachment on the public land, but in spite of that neither the proceeding has been initiated nor the encroachment has been removed. The petitioner submitted several representations before the authorities, but the same went unheeded.

Learned AC to AAG-12 submits that at present he is not having any instruction whether the land in question is a public land/road or not or whether the proceeding



under Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as the 'Act') has been initiated or not, but if the encroachment is found on the public land and the proceeding has not been initiated till date, it will be initiated forthwith and would be taken to its logical conclusion within a time frame.

Having heard the learned counsel for the parties, for initiating a proceeding under the Act, the only precondition is that it should appear to the Collector under the Act, on an application made by any person or upon information received from any sources that any person has made or is responsible for continuation of any encroachment upon any public land. No doubt in the present case, the representations were submitted before the authorities in the year 2017, but there is nothing on record to suggest that any proceeding has been initiated.

In view of the discussion made above, the respondent no. 5, Circle Officer, Bibhutipur is expected to examine the Revenue Records and, if need be, to conduct spot verification of the land in question and if it appears to him that public land/road has been encroached upon then he shall initiate a proceeding under the Act forthwith, if it has already not been initiated and will take such proceeding to its logical conclusion



within a period of four months, after giving proper opportunity of hearing to all the affected persons including respondent no. 6 in accordance with the provisions of the Act.

Accordingly, this Writ application is disposed of.

(Dinesh Kumar Singh, J)

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