

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3728 of 2018

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Amerika Pandit, Son of Late Mangal Pandit, Resident of Village- Khajuriya,
P.S.- Malahi, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Revenue and Land Reforms Department, Bihar, Patna.
2. The Sub- Divisional Officer, Areraj, East Champaran.
3. The Anchaladhikari, Areraj Anchal, District- East Champaran.
4. The Officer-in- Charge, Malahi Police Station, East Champaran.
5. Yogendra Shukla, Son of Jagarnath Shukla, Resident of Village- Khajuriya, P.S.- Malahi, District- East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma
For the Respondent/s : Mr. S.C. Yadav, GP 15

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 18-07-2018

Heard Mrs. Rashmi Jha, learned counsel for the petitioner and Mrs. Sangh Mitra Ghosh, learned AC to GP 15 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 No. 5, Yogendra Shukla.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the public land/embankment of the pond, appertaining to Plot No. 374, Thana No. 360, situated at Village Khajuriya, Circle Areraj, District East Champaran.



It is submitted by learned counsel for the petitioners that the land in question is the embankment of the pond, which is being used by public at large for worship during Chhath festival, but the same has been encroached upon by private Respondent No.5, by constructing shop and thereby blocked the public pathway, causing inconvenience to the public at large.

For removal of the encroachment from the land in question, a petition was submitted before Respondent No.3, the Circle Officer, Areraj, as contained in Annexure-1, 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 GP 15 submits that at present, she is not having any instruction whether the land in question is a public land or not. However, she further submits that 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, this Court is of the view that for initiation of a proceeding under Section 3 of 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 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, an undated petition was submitted by the petitioner before Respondent No.3, the Circle Officer, Areraj, as contained in Annexure-1, and a photo copy of an article published in a newspaper, as contained in Annexure-2, also suggest that the public land in question has been encroached upon, 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, Areraj 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 till date, and will take such proceeding to its logical conclusion within a period of three



months from its initiation, after giving due notice and hearing to all affected persons, including the petitioner and private Respondent No. 5, 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	

