

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5821 of 2018

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Kalam Mian, Son of Sadique Ansari @ Sadik Miyan, resident of village- Sareya, Dukhan Ram Virti, P.S. - Paharpur, District- East Champaran.

... .. Petitioner

Versus

1. The State Of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Bihar, Patna.
 2. The District Magistrate, Motihari, East Champaran.
 3. The Sub-Divisional Magistrate-cum-the Sub-Divisional Public Grievance Redressal Officer, Areraj, District- East Champaran.
 4. The Anchala Adhikari, Paharpur Anchal, District- East Champaran.
 5. The Deputy Superintenden of Police, Areraj, East Champaran.
 6. Chandradeo Pandit, son of Bipat Pandit,
 7. Mathura Pandit, son of Late Garju Bhagat,
- Private Respondent Nos. 5 and 6 are residents of village- Sareya, Dukhan Ram Virti, P.S.- Paharpur, District- East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma, Adv.
For the Respondent/s : Mr. Rishi Raj Sinha, SC-19

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 03-08-2018

Heard Mrs. Rashmi Jha, learned counsel for the petitioner
and learned AC to SC-19, for the respondent-State.

Though the present writ application has been registered before this Court on 29.03.2018, but till date, no counter affidavit has been filed. Hence, 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 notices to private Respondent Nos. 6 and 7.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the land, appertaining to Khata No.1212, Plot No. 1225, situated at



Mauza Sareya, District East Champaran, but the same has been encroached upon by the Private Respondent Nos. 6 and 7.

It is submitted by learned counsel for the petitioner that the land in question is a pathway, which connects the residential house of the petitioner to the main road and it is being used by public at large. On application of the petitioner before Respondent No.3, the Sub-Divisional Public Grievance Redressal Authority, Areraj, whereupon, Complaint Case No. 5024101-02026, was registered and the Sub-Divisional Public Grievance Redressal Authority, Areraj, vide order dated 21.11.2017, as contained in Annexure-1, directed Respondent No.4, the Circle Office, Paharpur, to initiate a proceeding under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') and to get the encroachment removed from the land in question. Consequently, Respondent No.4, the Circle Officer, Paharpur, directed the Circle Amin to conduct the measurement of the land in question. After having measured the land in question, the Circle Amin came to know about the fact that the pathway has been encroached upon by the private Respondent Nos. 6 and 7, but in spite of the above fact and several representations, out of which, a representation has been brought on record, as Annexure-3, which was submitted before Respondent No.4, the Circle Officer, Paharpur, neither any encroachment proceeding has been initiated nor the



encroachment has been removed from the land in question. Hence, the present writ application.

Learned AC to SC-19 submits that at present, he is not having any instruction whether the land in question is a public land/road or not, but if the public land/road has been encroached upon then appropriate proceeding, under 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 the proceeding, the only precondition 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, it appears that the petitioner made an application before the Respondent No.04, the Circle Officer, Paharpur, prior to passing the order by Public Grievance Redressal Authority and subsequent thereof. Moreover, Respondent No.04, the Circle Officer, Paharpur appeared in the proceeding before the Sub-Divisional Public Grievance Redressal Authority, wherein the Circle Officer, Paharpur, Respondent No.4, was directed to initiate a proceeding with regard to the land in question under the Act, 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, which reflects the callous manner in which the Circle Officer, Paharpur, is discharging statutory obligations.

In the circumstance, it is expected from Respondent No.4, the Circle Officer, Paharpur, 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/road and the same has been encroached upon, then he will initiate a proceeding forthwith, if it has already not been initiated as yet, and will take such proceeding to its logical conclusion within a period of four months from its initiation, after giving due notice to all affected persons, including the petitioner and private Respondent No. 6 and 7, in accordance with the provisions of the Act.

Accordingly, the present writ application is disposed of with the aforesaid direction.

(Dinesh Kumar Singh, J)

Amrendra/Deepak/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

