

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8533 of 2018

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Sidhi Nath Anand, Aged about 45 years, Son of Late Dr. Shankaranand Prasad, Resident At present B-83, P.C. Colony, Lohiya Nagar, Kankarbagh, P.S.- Kankarbagh, District- Patna- 800020. Permanent Address- At Chowk Bazar (Old Srawan Bazar) Munger, P.S. Kotwali, District- Munger Pin- 811201.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Munger.
3. The Sub- Divisional Magistrate, Munger.
4. The Superintendent of Police, Munger.
5. The Deputy Superintendent of Police, Munger.
6. The S.H.O. of Kotwali Police Station, District- Munger.
7. The Circle Officer, Munger Sadar, District- Munger.
8. The Administration, Munger Municipal Corporation, Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar
For the Respondent/s : Mr. Sajid Salim Khan, SC- 25

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 16-05-2018

Heard Mr. Arvind Kumar, learned counsel for the petitioner and Mr. Sajid Salim Khan, learned SC-25, for the Respondent-State and Mr. Sivendra Kumar Sinha, learned counsel for Munger Municipal Corporation.

Though, the present writ application was registered on 01.05.2018, but in view of 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 both sides of the road at Chowk Bazar, Munger,



which has been encroached by street vendors from Bata Shoe Shop to the gate of Bank of India.

It is submitted by learned counsel for the petitioner that adjacent to the road in question, the commercial shop of the petitioner is situated, but due to the encroachment, the ingress and egress of the petitioner from his shop has been blocked. For removal of encroachment from the road in question, the petitioner submitted an application before Respondent No. 3, the Sub-Divisional Officer, Munger Sadar on 27.12.2017, as contained in Annexure-3, but in spite of said representation, no action has been taken.

Learned AC to SC-25 submits that at present, he is not having any instruction, but if the encroachment is being made on a public land then a proper proceeding under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') will be initiated forthwith by the authorities and the 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 for initiation of a proceeding under Section 3 of the Act, 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 any



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

In the present case, it appears that representation was filed by the petitioner on 27.12.2017 before Respondent no.3, the Sub-Divisional Officer, Munger Sadar, but there is nothing on record to suggest that any proceeding under the Act has been initiated or the encroachment has been removed from the road in question.

In the circumstances, the petitioner is permitted to submit a representation before Respondent no.7, the Circle Officer, Munger Sadar within a period of three weeks from the date of receipt/production of a copy of this order, when Respondent no.7, the Circle Officer, Munger Sadar is expected to verify the Revenue Record and if need be, conduct spot verification and get the measurement of the road in question done, whereupon, if it appears to him that the road in question is a public road and the same has been encroached upon, then he will 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 from its initiation, after giving due opportunity of hearing to all affected persons including the petitioner, in accordance with the provision 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	22.05.2018
Transmission Date	

