

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4649 of 2018

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1. Chandradeep Chaudhary, Son of Late Nandlal Chaudhary,
 2. Marai Prasad, Son of Late Salik Prasad,
 3. Shailendra Kumar Srivastava, Son of Late Madan Prasad Srivastava,
 4. Vijay Kumar Srivastava, Son of Late Shambhu Sharan Sinha, All resident of Village- Baterdih, P.S.- Barauli, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director, Land Reforms, Govt. of Bihar, Patna.
2. The Collector, Gopalganj.
3. The Sub Divisional Officer, Gopalganj.
4. The Anchal Adhikari, Anchal Barauli, District- Gopalganj.
5. Paras Bhagat, Son of Narsing Bhagat,
6. Hiranman Bhagat, Son of Dhanraj Bhagat,
7. Babuchand Bhagat, Son of Raushan Bhagat,
8. Harendra Pandit, Son of Taran Pandit,
9. Paron Pandit, Son of Munni Pandit,
10. Raju Prasad, Son of Satya Narayan Prasad,
11. Bachcha Bhagat, Son of Bindeshwar Bhagat,
12. Ashok Bhagat, Son of Jagat Bhagat,
13. Brij Bihari Bhagat, Son of Lakshman Bhagat,
14. Hiralal Bhagat, Son of Kalu Bhagat,
15. Banarsi Bhagat, Son of Kalu Bhagat,
16. Yogendra Bhagat, Son of Swaroop Bhagat,
17. Gayatri Devi, Wife of Sruesh Bhagat,
18. Wakil Bhagat, Son of Narsing Bhagat,
19. Ramji Bhagat, Son of Sineshwar Bhagat,
20. Sri Bhagat, Son of Sineshwar Bhagat,
21. Sarhatra Kuar, Wife of Bhagwat Bhagat,
22. Babunand Bhagat, Son of Ram Ratan Bhagat,
23. Kasi Bhagat, Son of Baharan Bhagat,
24. Chandrika Bhagat, Son of Fagu Bhagat,
25. Mahant Bhagat, Son of Bhola Bhagat, All resident of Pokhra Durga Mandir Tola, Baterdih, P.S.- Barauli, District- Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Anisur Rahman
For the Respondent/s : Mr. Md. Khurshid Alam -Aag12

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 26-07-2018



Heard Mr. Anisur Rahman, learned counsel for the petitioners and Mr. Majid Mehboob Khan, learned AC to AAG 12 for the respondent-State.

Since, the present writ application was registered on 13.03.2018, but till date, no counter affidavit has been filed, hence, in view of the nature of order, this Court intends to pass, this Court neither inclines to adjourn the matter any further, nor inclines to issue notice to private Respondent Nos. 5 to 25.

The present writ application has been filed for a direction to respondent authorities to get the encroachment removed from the public land, appertaining to Khata No. 862, Plot No. 1951, Khewat No. 14, situated in Village Baterdih, P.S. Barauli, District Gopalganj, which is being used by the public at large as a public road, but the same has been encroached upon by private respondent Nos. 5 to 25.

It is submitted by learned counsel for the petitioner that the land in question is recorded in Khatian as 'Gairmajarua Malik', and the same is used by the villagers at large as a public road. Adjacent to the land in question, over the land, appertaining to plot no. 1959, a pond is situated which is also being used by the villagers for irrigation purposes. Over part of the land in question, a temple of goddess Durga, a community hall and a Balika Bihar



School are situated, but the same has been encroached upon by private Respondent Nos. 5 to 25.

For removal of the encroachment from the land in question, several public petitions were submitted before Respondent No.4, the Circle Officer, Barauli, one of such public petitions dated 23.11.2017 has been brought on record, as contained in Annexure-2. A public petition was also submitted before Respondent No.3, the Sub-Divisional Officer, Gopalganj, as contained in Annexure-3 for getting the encroachment removed from the land in question, but till date, no action has been taken, as neither any proceeding under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') has been initiated nor the encroachment has been removed from the land in question. Hence, the present writ application.

Mr. Majid Mehboob Khan, learned AC to AAG 12 submits that at present, he is not having any instruction, but if the land in question is a public land and the same has been encroached upon, then appropriate proceeding under the Act will be initiated forthwith and such 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 initiating 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 persons or upon information received from any sources that any persons has encroached upon or is responsible for the continuation of the encroachment over the public land.

In the present case, several public petitions were submitted before Respondent No.3, the Sub-Divisional Officer, Gopalganj as well as before Respondent No.4, the Circle Officer, Barauli as far back as on 23.11.2017, but there is nothing on record to suggest that any proceeding has been initiated under the Act for removal of the encroachment or the encroachment has been removed from the land in question.

In the circumstances, it is expected from Respondent No.4, the Circle Officer, Barauli 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 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 petitioners and private



Respondent Nos. 5 to 25, in accordance with the provisions of the
Act.

Accordingly, with the above observation, the present
writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

