

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.218 of 2017

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Sanjeet Kumar Singh, Son of Sri Dev Narayan Singh, Resident of Village -
Harail, Post - Harail, P.S. Mohiuddin Nagar, District - Samastipur

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Land Reforms and Revenue Department, Government of Bihar, Patna
2. The District Magistrate, Samastipur
3. The Sub-Divisional officer, Patory, Samastipur
4. The Deputy Collector, Land Reforms, Patory, Samastipur
5. The Circle Officer, Mohiuddin Nagar, District Samastipur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Surendra Kumar Mishra
For the Respondent/s : Mr. Rishi Raj Sinha, SC-19

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 14-08-2018

Heard Mr. Surendra Kumar Mishra, learned counsel for the petitioner and Mr. Birendra Pratap Singh, learned A.C. to S.C. 19 for the Respondent State.

In view of the fact that the writ application was registered on 11.1.2017 but no counter affidavit has been filed till date and the nature of the order this Court is inclined 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 public land appertaining to Thana No. 194, Khata No. 142, Plot No 1893



(old), 1525 and 1526 (New), situated at Mauza – Harail in the district of Samastipur. An alternative prayer has been made for initiation of a proceeding under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as ‘the Act’) with regard to the removal of encroachment from the land in question.

It is submitted by learned counsel for the petitioner that in the records of right, the land in question is recorded as ‘Gairmajarua Aam’ land. The petitioner submitted an application before the Respondent No. 5, the Circle Officer, Mohiuddin Nagar on 12.4.2016, as contained in Annexure 1, with a prayer for removing the encroachment from the land in question but no action was taken by the Circle Officer. Thereafter, the petitioner submitted an application before the Respondent No. 2, District Magistrate, Samastipur on 11.7.2016 but even then no action was taken. Ultimately, the petitioner submitted an application under Right to Information Act, 2005 on 4.8.2016 before the Public Information Officer-cum-Collector, Samastipur, as contained in Annexure 3, with regard to the action being taken on the application of the petitioner for removal of the encroachment from the land in question, but no information was supplied to the petitioner. Since neither the encroachment proceeding was initiated nor the encroachment has been removed from the land in question, hence the present writ application.



Learned counsel for the Respondent State submitted that, at present, he is not having any instruction whether the encroachment has been removed or not or whether any proceeding under the Act has been initiated or not, but if the proceeding has not been initiated till date, the same will be initiated forthwith and the same will be taken to its logical conclusion within a reasonable time frame.

For initiating a proceeding under the Act, it should appear to the Collector under the Act from an application made by any person or upon the information received from any source that any person has made or is responsible for the continuation of encroachment upon any public land.

As it appears from the statements made in the writ application on affidavit, that the application for removal of encroachment was submitted before the Respondent No. 5 on 12.4.2016 and also before the Respondent No. 2, the District Magistrate, Samastipur on 11.7.2016 but there is nothing on record to suggest that any proceeding has been initiated till date for removal of the said encroachment.

In the circumstances, the Respondent No. 5, the Circle Officer, Mohiuddin Nagar is expected to examine the revenue records and if need be, conduct spot verification and thereafter, if it appears to him that there is an encroachment on the land in question, then he will initiate an encroachment proceeding forthwith if not already initiated,



and will take it to its logical conclusion within a period of four months from the date of receipt/production of a copy of this order, after giving due notice to all affected persons including the petitioner, in accordance with the provisions of the Act.

This writ application, accordingly, disposed of with the aforementioned observation and direction.

(Dinesh Kumar Singh, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

