

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.208 of 2018

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Pawan Kumar Singh, Son of Bhagwat Singh, Resident of Village - Kabiya (Banouli), P.S.-Bhagwanpur, District- Begusarai.

... .. Petitioner

Versus

1. The State of Bihar through Collector, Begusarai.
2. The Collector-cum-District Magistrate, Begusarai.
3. The Superintendent of Police, Begusarai.
4. The Sub Divisional Officer, Teghra, District - Begusarai.
5. The Circle Officer, Bhagwanpur, District - Begusarai.
6. Sagar Paswan, Son of Late Darogi Paswan
7. Visni Paswan
8. Arun Paswan
9. Ramashish Paswan
10. Sudhir Paswan
11. Lal Babu Paswan, Respondent No. 6 to 11 are S/o- Sagar Paswan
12. Vilas Paswan, Son of Lakhan Paswan
13. Saryug Paswan
14. Chunchun Paswan
15. Vinod Paswan
16. Pramod Paswan, Respondent No. 13 to 16 are S/o- Vilas Paswan
17. Ramu Paswan, Son of Shukra Paswan
18. Lalmuni Paswan, Son of Shukra Paswan
19. Suresh Paswan
20. Kamli Paswan
21. Dinesh Paswan, Respondent No. 19 to 21 are S/o- Late Anup Paswan null
22. Sanjay Mahto Son of Lakhan Mahto
23. Manjay Mahto Son of Lakhan Mahto
24. Manish Kumar Mahto, Son of Lakhan Mahto, Sl. No. 6 to 24 are R/o Village - Banoli, P.S. Bhagwanpur, District - Begusarai.
25. Mahesh Paswan, Son of Mangal Paswan
26. Dinesh Paswan, Son of Mangal Paswan
27. Kusho Paswan, Son of Bhatu Paswan
28. Vikash Paswan, Son of Bhatu Paswan
29. Bhatu Paswan, Son of Late Kailu Paswan
30. Rajesh Paswan, Son of Late Kailu Paswan
31. Ram Uday Paswan, Son of Ram Khelawan Paswan, Sl. No. 25 to 30 are Residents of Village - Sahjahanpur, Desri Tola, Banouli, P.S. Bibhutipur, District - Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Chandan Kumar Kashyap
For the Respondent/s : Mr. Raj Kishore Roy, GP-18

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 23-04-2018



Heard Mr. Chandan Kumar Kashyap, learned counsel for the petitioner and Mr. Raj Kishore Roy, learned G.P.-18 for the respondent-State.

Though, the present writ application was registered on 04.01.2018, 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 neither inclined to adjourn the matter any further nor inclined to issued notice to private respondent nos. 6 to 31.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the public road no.62/2076, which is known as Dohra-Nasua Road.

It is submitted by learned counsel for the petitioner that the road in question has been encroached upon by private respondent nos. 6 to 31.

For removal of encroachment from the road in question, a public petition was submitted before respondent no.2, District Magistrate, Begusarai, respondent no.3, the Superintendent of Police, Begusarai, respondent no.4, the Sub-Divisional Officer, Teghra and respondent no.5, the Circle Officer, Bhagwanpur on 14.09.2017, as contained in Annexure-1 (series), but no action has



been taken by the authorities till date. Hence the present writ application.

Mr. R.K. Roy, learned G.P.-18 submits that at present, he is not having any instruction whether the land in question is a public land or not or whether the encroachment has been removed or not, but if the land in question is a public land and the same has been encroached upon, then appropriate proceeding will be initiated under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act'), if it has already not been initiated and the same will be taken to its logical conclusion within a time frame.

Having heard learned counsels for the parties, the *sine qua non* for initiation of proceeding under Section 3 of the Act 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, no doubt a representation was submitted before respondent no.5, the Circle Officer, Bhagwanpur, on 14.09.2017, as contained in Annexure-1(series), but there is nothing on record to suggest that any proceeding under the Act has been initiated till date.



In the circumstances, respondent no.5, the Circle Officer, Bhagwanpur is expected to examine the Revenue Records and if need be, conduct spot verification and measure the land in question, 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 three months from its initiation, after giving due opportunity of hearing to all affected persons including private respondent nos. 6 to 31, in accordance with the provisions 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	25.04.2018
Transmission Date	

