

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.958 of 2018

=====

Ganga Prasad Mahto, Son of Jhalar Mahto, Resident of Village- Mahrail Navlakha, P.S.- Rudrapur, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Revenue and Land Reforms Department Govt. of Bihar, Patna.
2. The District Magistrate-cum Collector, Madhubani.
3. The Sub-Divisional Public Complaint Redressal Officer, Jhanjharpur, Sub-Division, Madhubani.
4. The Circle Officer, Andhratharhi, Madhubani.
5. Sakina Khatoon, W/o Md. Kirani (Marhum), R/V Harna, P.S.- Rudrapur, Dist.- Madhubani.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Gagan Deo Yadav, Adv.

For the Respondent/s : Mr. Fakhruddin Ali Ahmad, AC to AAG-12

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date : 31-07-2018

Heard learned Counsels for the petitioner and the respondent-State.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the public land, appertaining to Khata No.1475, situated at Village -Mahrail Navlakha, P.S.- Rudrapur, District – Madhubani.

Since the writ application was registered on 15.01.2018, but no counter affidavit has been filed till date and in view of the nature of order this Court intends to pass, this



Court is neither inclined to adjourn the matter nor inclined to issue notice to Private Respondent No.5, Sakina Khatoon.+

It is submitted by learned counsel for the petitioner that the land in question is a public road, but the same has been encroached upon by Respondent No.5. The petitioner submitted an application on 14.04.2014, before the Respondent No.4, the Circle Officer, Andhratharhi for getting the encroachment removed from the land in question. But no action was taken, then the petitioner filed complaint before the Respondent No.3, the Sub-Divisional Public Grievance Redressal Officer, Jhanjharpur, Madhubani, on 22.08.2017, as contained in Annexure-1, whereupon, Case No.505510122081700794, was registered, wherein, it appears that the Circle Officer appeared and submitted that the measurement of the land in question will not be made due to water logging. Thereafter, the petitioner submitted another application before the Respondent No.4, the Circle Officer, Andhratharhi, on 22.11.2017, as contained in Annexure-3, but till date neither any proceeding has been initiated, nor the encroachment has been removed from the land in question. Hence, the present writ application.

It is submitted by learned AC to AAG-12 that, at present, he is not having any instruction whether the land in



question is a public land/road or not, but if it is a public land/road and the same has been encroached upon, then a proper proceeding under the provisions of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') will be initiated forthwith, if it has not been initiated and the same will be taken to its logical conclusion within a time frame.

The sine qua non for initiating a proceeding for removal of encroachment is prescribed under Section 3 of the Act which stipulates that if it appears 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 any encroachment upon any public land, he will initiate a proceeding under the Act.

As claimed by the petitioner, a representation was submitted before the Respondent No.4, the Circle Officer, Andhratharhi, on 22.11.2017, as contained in Annexure-3, but there is nothing on record to suggest that any proceeding has been initiated till date or any effort has been taken to come to the finding whether the land in question is a public land or not.

In the circumstances, the Respondent No.4, the Circle Officer, Andhratharhi is directed to examine the revenue records and if need be to conduct spot verification, whereupon, if it



appears to him that public road/land has been encroached upon, then he will initiate a proceeding forthwith with regard to the land in question in accordance with the provisions of Act, if it has not already been initiated and will take such proceeding to its logical conclusion within a period of three months, by giving due opportunity of hearing to all affected persons, including Respondent No.5 and the petitioner, in accordance with the provisions of the Act.

The Writ application is, accordingly, disposed of with the observation aforesaid.

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

