

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8147 of 2018

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Sanjay Singh, Son of Late Avadh Bihari Singh, Resident of Village- Katar,
Police Station- Piro, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reforms Department,
Government of Bihar, Patna.
3. The District Magistrate, Bhojpur, Ara.
4. The Circle Officer, Piro.
5. Smt. Geeta Devi, Wife of Sri Madan Ram, Resident of Village- Katar, Police
Station- Piro, District- Bhojpur.
6. The S.D.O., Piro, Bhojpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Chandra Bhushan Singh
For the Respondent/s : Mr. Md. Khurshid Alam- AAG-12

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 16-05-2018

Heard Mr. Chandra Bhushan Singh, learned counsel for
the petitioner and Mr. Fakruddin Ali, learned AC to AAG-12 for
the respondent-State.

Though, the present writ application was registered on
26.04.2018, but 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 issue notice to private Respondent no.5.

The present writ application has been filed for a
direction to the respondent authorities to get the encroachment
removed from the land, appertaining to Plot No. 2213, which is a



public road, but the same has been encroached upon by private Respondent no.5.

It is submitted by learned counsel for the petitioner that the land in question is being used by public at large as a road and PCC road was constructed through M.L.A. fund over the land in question. The Khatiyan also reflects that the land in question is being used by public at large as road. In a proceeding initiated under Section 144 Cr. P.C., the Executive Officer, Piro, vide order dated 08.08.2016, passed in Case No. 109 of 2016, while disposing off the proceeding, allowed the parties to enter into an agreement to the effect that the P.C.C. road would extend up to Plot No. 2213. The petitioner also submitted an application before Respondent no.3, the District Magistrate, Bhojpur on 03.03.2017 for removal of the encroachment from the land in question, but no action has been taken by the respondent authorities till date. Hence, the present writ application.

Learned AC to AAG-12 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 such proceeding will be taken to its logical conclusion within a time frame. However, he



further submits that from the order passed in a proceeding initiated under Section 144 Cr. P.C. it appears that the dispute is with regard to raiyati land between the petitioner and Respondent no.5, wherein the parties agreed that up to land, appertaining to Plot No. 2213, there shall be P.C.C. road, and hence, the present writ application has virtually been filed for execution/implementation of an order passed under Section 144 Cr. P.C..

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 03.03.2017 before Respondent no.3, the District Magistrate, Bhojpur, 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 land in question.

In the circumstances, the petitioner is permitted to submit a representation before Respondent no.4, the Circle Officer, Piro within a period of three weeks from the date of



receipt/production of a copy of this order, when Respondent no.4, the Circle Officer, Piro is expected to verify the Revenue Record and if need be, conduct spot verification and get the measurement of the land in question conducted, 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 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 Respondent no.5 and the petitioner, 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	
Transmission Date	

