

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6475 of 2018

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1. Krishna Singh, Son of Late Gopal Singh, Resident of Village-Mangalpur Kala, Post Office Mangalpur Gudaria, Gram Panchayat, Mangalpur Kala, Anchal Nautan, Police Station, Nautan, Sub-Divisionm Bettiah Sadar, District, West Champaran.
 2. Laljee Mukhia, Son of Late Balrup Mukhia, Resident of Village-Mangalpur Kala, Post Office, Mangalpur Gudaria, Gram Panchayat, Mangalpur Kala, Anchal Nautan, Police Station, Nautan, Sub-Division, Bettiah Sadar, District West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, West Champaran at Bettiah.
3. The Sub-Divisional Officer, Sub-Division-Bettiah Sadar, West Champaran at Bettiah.
4. The Executive Engineer, Flood Control Division, Motihari, East Champaran.
5. The Circle Officer, Nautan, West Champaran at Bettiah.
6. The Officer-in-Charge, Police Station, Nautan, West Champaran.
7. Gaya Chaudhary, Son of Late Ramdeo Chaudhary.
8. Ramprit Chaudhary, Son of Late Rekhu Chaudhary.
9. Shambhu Chaudhary, Son of Late Rekhu Chaudhary.
10. Yogi Chaudhary, Son of Late Rekhu Chaudhary.
11. Mahatam Chaudhary, Son of Late Rekhu Chaudhary.

All are resident of village, Mangalpur Kala Post Office Mangalpur Gudaria, Gram Panchayat, Mangalpur Kala, Anchal Nautan Sub-Division, Bettiah Sadar Police Station, Nautan, District- West Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Lalan Kumar Verma, Advocate
For the Respondent/s : Mr. Anjani Kumar, AAG-4

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 06-08-2018

Heard Mr. Lalan Kumar Verma, learned counsel for the
petitioners and Mr. Dipak Sah, learned AC to AAG-4.

Since the writ petition has been registered on 5.4.2018
and no counter affidavit has been filed by the respondent authorities



and in view of the nature of the order, this Court intends to pass, this Court is not inclined to issue notice to private respondent nos.7 to 11 or to adjourn the matter.

The present writ application has been filed for a direction to respondent no.5, Circle Officer, Nautan to take a decision on the representation of the petitioners dated 13.5.2017 whereby the prayer has been made for getting the encroachment removed from the embankment of the Gandak river situated on land appertaining to Plot Nos.146 and 452 in the Gram Panchayat, Mangalpur Kala, Circle Nautan, District- West Champaran, which has been encroached upon by Respondents 2nd Set (Respondent Nos.7 to 11).

It is submitted by learned counsel for the Petitioners that the land in question is a public road, situated on the embankment of the Gandak river but the same has been encroached upon by the private respondents, as a result, the public at large is facing great inconvenience. It is further submitted by the learned counsel for the petitioners that a representation was submitted by Respondent No.5 on 13.5.2017, as contained in Annexure-1, raising the grievance of encroachment made on the public road/land but neither an encroachment proceeding has been initiated nor the encroachment has been removed by the concerned authority, the petitioners also thereafter submitted a representation ventilating their grievances by



submitting before Respondent No. 04, the Executive Engineer, Flood Control Division, Motihari, East Champaran on 7.6.2017, as contained in Annexure-2, as well as before Respondent No. 03, the Sub-Divisional Officer, Bettiah Sadar on 4.7.2017, as contained in Annexure-3, and before Respondent No. 02, the District Magistrate, West Champaran at Bettiah on 20.1.2018, as contained in Annexure-4, but no action has been taken by the authorities with regard to removal of the encroachment from the land in question.

Learned AC to AAG-4 submits that at present he is having no instruction whether the said land is a public land or not but if the public land has been encroached upon then a proper proceeding will be initiated and taken to its logical conclusion within a reasonable time frame.

Section 3 of the Bihar Land Encroachment Act, 1956 provides the mechanism for initiating a proceeding under the Act which stipulates that it can be initiated either on the application made by any person or upon the information received from any source that any person has made or is responsible for continuance of any encroachment upon any public land.

A submission has been made on affidavit that the representation was submitted before the Respondent No. 05, Circle Officer on 13.5.2017, therefore, there is no question of disbelieving



the said statement. However, there is nothing on record to suggest that any proceeding has been initiated under the Act, or that the encroachment has been removed from the land in question.

Though a counter affidavit is filed on behalf of Respondent No. 06, the S.H.O., Nautan P.S., Bettiah, but the same is of no help in adjudicating the issue. as it has merely been stated that the matter relates to Respondent No. 05, the Circle Officer.

In the circumstances, the Respondent No.5, Circle Officer is expected to examine the revenue records with regard to the land in question and if need to make spot verification whereupon if it appears to them that the public land/road has been encroached upon, then he will initiate a proceeding under the Act forthwith, if the same has not been initiated and will take such proceeding to its logical end within a period of four months after giving due opportunity of hearing and after giving notice to the affected persons including Respondent Nos.7 to 11, the petitioners and the other persons.

Accordingly, this writ application is disposed of.

(Dinesh Kumar Singh, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	23.8.2018
Transmission Date	23.8.2018

