

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6515 of 2018

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Chandan Kumar Prasad, son of Yugeshwar Prasad Singh, resident of village Gahiri, Murliya Tola, Ward No. 7 Post Office Victoriya Mission, Anchal Nautan Police Station Nautan, District West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, East Champaran at Motihari.
3. The Sub-Divisional Officer, Sub-Division, Areraj, East Champaran.
4. The Circle Officer, Circle Paharpur, District East Champaran.
5. The Officer-in-charge, Police Station Paharpur District East Champaran.
6. Byas Singh, son of late Mangal Singh, Resident of village Sareya, Jagiri Tola, Post Office - Victoriya Mission, Gram Panchayat West Sareya Police Station - Paharpur, Anchal Paharpur, District East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Lalan Kumar Verma, Advocate
For the Respondent/s : Mr. Raj Kishore Roy, GP-18
Mrs. Purna Anand, AC to GP-18

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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 petitioner and Mrs. Purna Anand, learned AC to GP-18.

The present writ application has been filed for a direction to the Respondent no.4, Circle Officer, Paharpur to take a decision on the representation of the petitioner dated 12.6.2017, as



contained in Annexure-1 to the writ application whereby prayer has been made for removal of encroachment from the land appertaining to Khata No.692, Plot No.2838 situated in Gram Panchayat, West Sareya of Paharpur Anchal.

It is submitted by the learned counsel for the petitioner that the land in question is being used by the public at large, but the same has been encroached upon by the Private Respondent No. 06, Byas Singh. The petitioner submitted a representation before the Respondent No. 03, the Circle Officer on 12.6.2017 as contained in Annexure-1 before the Sub-Divisional Officer, Sub-Division Areraj (Respondent No.3) on 6.7.2017, as contained in Annexure-2 and before the Respondent No. 02, the District Magistrate, East Champaran, Motihari on 17.8.2017 but till date, neither any encroachment proceeding has been initiated nor the encroachment has been removed for the land in question.

It is submitted by learned AC to GP-18 that at present, she is not having any instruction whether the said land is a public land or not but if it is a public land and has been encroached upon then a proper proceeding will be initiated under the provision of the Bihar Public Land Encroachment Act (hereinafter referred to as 'the Act') and will be taken to its logical conclusion within a reasonable time frame.



Since the writ petition has been registered on 6.4.2018 but no counter affidavit has been filed till date and in view of the nature of the order, this Court is inclined to pass, there is no requirement to issue notice to Respondent No. 06.

Section 3 of the Act clearly stipulates that a proceeding can be initiated by the Collector under the Act either on the application made by any person or upon the information received from any source that any person has made or his responsible for any encroachment upon any public land. The pleadings of the petitioner which has not been controverted of learned counsel for the State clearly suggests that the representation has been submitted before the Circle Officer on 12.6.2017 but there is nothing on record to suggest that the encroachment proceeding has been initiated or the encroachment has been removed from the land in question.

In the circumstances, it is expected from Respondent No. 04, the Circle Officer, Paharpur initiated a proceeding with regard to the land in question and if need to conduct spot verification whereupon if it appears to him that the public land 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 from the date of receipt/production of the copy of this order after giving notice



to all the affected persons including Respondent No.6 and the
Petitioner.

Accordingly, the writ application is disposed of with
the aforementioned direction and observation.

(Dinesh Kumar Singh, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	16-08-2018
Transmission Date	

