

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4789 of 2018

1. Birju Rai, Son of Natho Rai, Resident of Village-Dariyapur, Ward No.4, P.O.-Hanspur, P.S.-Nayagawn, District-Begusarai
2. Ramshinghasan Rai, Son of late Saheb Rai, Resident of Village-Dariyapur, Ward No.4, P.O.-Hanspur, P.S.-Nayagawn, District-Begusarai.
3. Ramadhar Rai, son of Balgovind Rai, Resident of Village- Dariyapur, Ward No.9, P.O.-Hanspur, P.S.-Nayagawn, District-Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
3. The District Magistrate, Begusarai, District-Begusarai
4. The Circle Officer, Matihani,
5. The Officer-in-charge, Nayagawn Police Station, District-Begusarai
6. The Circle Inspector, Matihani Circle, District- Begusarai
7. The Executive Engineer, Rural Works Division, Begusarai, District-Begusarai
8. Ram Sevak Rai, Son of late Raghunandan Rai, Resident of Village-Dariyapur, Ward No.9, P.O. -Hanspur, P.S.-Nayagawn, District-Begusarai.
9. Phulena Rai, Son of Shivnandan Rai
10. Bauvalal Rai, son of Shivnandan Rai
Both resident of Village-Dariyapur, Ward No.9, P.O. Hanspur, P.S. Nayagawn, District-Begusarai.
11. Hare Ram Rai
12. Kartik Rai
13. Nawal Rai
All sons of late Ram Khelawan Rai, Resident of Village-Dariyapur, Ward No.9, P.O.-Hanspur, P.S.-Nayagawn, District-Begusarai.
14. Ramakant Rai
15. Shankar Rai
16. Rambilash Rai
All sons of late Ramkishun Rai, Resident of Village-Dariyapur, Ward No.9, P.O.-Hanspur, P.S.-Nayagawn, District-Begusarai.
17. Shiv Shankar Saw, son of late Budhan Sawn, resident of Village-Dariyapur, Ward No.9, P.O.-Hanspur, P.S.-Nayagawn, District-Begusarai.
18. Shankar Rai
19. Dashrath Rai
20. Vikash Rai
All sons of late Basude Rai, resident of Village-Dariyapur, Ward No.9, P.O.-Hanspur, P.S.-Nayagawn, District- Begusarai.
21. Lakshman Rai
22. Vashist Rai
23. Bharat Rai
All sons of late Bindeshwari Rai, Resident of Village-Dariyapur, Ward No.9, P.O.-Hanspur, P.S.-Nayagawn, District-Begusarai.



24. Rajiv Kumar Yadav, son of Ramashish Yadav, Resident of Village-Dariyapur, Ward No. 9, P.O.-Hanspur, P.S.-Nayagawn, District-Begusarai.
25. Surendra Rai, son of late Chamru Rai, resident of Village-Dariyapur, Ward No.9, P.O.-Hanspur, P.S.-Nayagawn, District-Begusarai.
26. Kedar Rai
27. Naresh Rai
28. Solo Rai
all sons of late Chandi Rai, Resident of Village-Dariyapur, Ward No.9, P.O.-Hanspur, P.S.-Nayagawn, District-Begusarai.
29. Naresh Yadav
30. Ashok Yadav
31. Sunil Yadav
All sons of late Baleshwar Yadav, Resident of Village-Dariyapur, Ward No.9, P.O.-Hanspur, P.S.-Nayagawn, District-Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s : Ms. Shally Kumari, Adv.
For the Respondent/s : Mr. Harish Singh, AC to GP-6

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date : 17-04-2018

Heard learned counsels for the petitioners and the respondent-State.

In view of the nature of order this Court intends to pass, neither it requires issuance of notice to private respondent nos. 8 to 31, nor to adjourn the matter any further.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the public road, appertaining to Plot No. 134, Khata No. 44, Thana No. 511, Mauza-Dariyapur, Circle-Matihani, District-Begusarai, or in alternative, the prayer has been made for a direction to the respondent no.4, the Circle



Officer, Matihani, to conclude the proceeding of Encroachment Case No.06 of 2017-18.

It is submitted by learned counsel for the petitioners that the public road is appertaining to Plot No. 134, Khata No.44, Thana No. 511, situated at Mauza-Dariyapur, Circle-Matihani, District-Begusarai. On the direction of the Circle Officer, the Anchal Amin submitted a report on 30.10.2017, as contained in Annexure-1, suggesting the details of persons who have encroached the land in question. Consequently, Encroachment Case No. 6 of 2017-18 was initiated and notices were issued to the respondent nos. 8 to 31, but till date neither the encroachment has been removed, nor the encroachment proceeding has been concluded. Hence, the present writ application.

It is submitted by learned AC to GP-6 that, at present, he is not having any instruction whether the encroachment proceeding has been concluded or not, but if it has not been concluded, the same will be concluded within a time frame.

Considering the rival submissions of the parties, true it is that provisions under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') does not prescribe a time frame for conclusion of proceeding, but the



authorities under the Act, particularly, the Collector under the Act, is expected to conclude the *quasi judicial* proceeding within a time frame.

In the circumstances, respondent no.4, the Circle Officer, Matihani, is expected to conclude the proceeding of Encroachment Case No.06 of 2017-18 by taking the same to its logical conclusion within a period of three months, after giving due notice of hearing to all the affected persons, including respondent nos. 8 to 31 in accordance with the provisions of the Act.

The Writ application is, accordingly, disposed of with the aforementioned observation and direction.

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	26.04.2018
Transmission Date	N.A.

