

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2007 of 2018

=====

Raj Krishna Ram @ Raj Krishna Prajapati, S/o Late Bangaram Kohar, R/o Village - Upari, P.S. - Ramgarh, District - Kaimur at Bhabua (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Old Secretariat, Govt. of Bihar, Patna.
 2. The District Magistrate, Kaimur (Bihar).
 3. The Superintendent of Police, Kaimur (Bihar).
 4. S.D.O. Ramgarh, Kaimur (Bihar).
 5. Circle Officer, Ramgarh, Kaimur (Bihar).
 6. S.H.O., P.S. Ramgarh, Kaimur (Bihar).
 7. Harihar Prajapati, S/o Late Mahesh Prajapati
 8. Ram Narayan Prajapati, S/o Late Mahesh Prajapati
 9. Jagropan Prajapati, S/o Late Mahesh Prajapati
 10. Mukhlal Prajapati, S/o Late Raghunath Prajapati
 11. Surendra Prajapati, S/o Late Raghunath Prajapati
 12. Lalan Prajapati @ Rabindra Prajapati S/o Late Raghunath Prajapati
 13. Buchulal Prajapati, S/o Late Raghunath Prajapati
 14. Kamlesh Prajapati, S/o Late Ramashankar Prajapati
 15. Sunil Prajapati, S/o Ram Narayan Prajapati
- All R/o Village - Upari, P.S. - Ramgarh, District - Kaimur, Bhabhua (Bihar).

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ashok Kumar, Adv.
For the Respondent/s : Mr. S.C. Yadav- GP15

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date : 19-06-2018

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 land appertaining to Chak Khata No.185, Khata No.83, Plot No.193, Plot No.182, 181 and 186, situated in Village-Upari, P.S.- Ramgarh, District-Kaimur as the same has



been encroached upon by Respondent Nos. 7 to 15.

Since the Writ application was registered on 31.01.2018, 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 nos.7 to 15.

It is submitted by learned counsel for the petitioner that the land in question is recorded in the revenue record 'as Chak Nala' from where the dirty and rainy water of the village used to be discharged since long, but since it has been blocked by Respondent Nos. 7 to 15 by putting soil and garbage, as a result the people of the village are faced with the problem of water logging. The petitioner represented the matter before the Respondent No.4, the S.D.O., Ramgarh, Kaimur, who imposed Section 107 of the I.P.C. on 09.08.2016, as contained in Annexure-P/1. Subsequently, in presence of Anchal Amin of both the sides, the land in question was measured on 13.02.2017, as gets reflected from measurement report, contained in Annexure-P/2. The matter was also raised before the Consolidation Officer, Ramgarh, Kaimur, who after perusal of the documents relating to the land in question issued a letter bearing Letter No.117, dated 16.11.2017, as contained in



Annexure-P/5, suggesting that the land in question is meant for flowing of water, but despite this fact the encroachment has not been removed. Hence, the present writ application.

It is submitted by Mr. S.C. Yadav, GP-15 that, at present, he is not having any instruction whether the land in question is a public land/drainage or not, but if it is a public land/drainage 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.

Having heard learned Counsels for the parties, 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.

No doubt, in the present case a representation was made as far back as in 2016, 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/drainage.

In the circumstances, the Respondent No.5, the Circle Officer, Ramgarh is expected to examine the revenue records and if need be make spot verification, whereupon, if he finds 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 take such proceeding to its logical conclusion within a period of three months, by giving due opportunity of hearing to all affected persons including the petitioner and Respondent Nos.7 to 15 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	

