

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.3496 of 2018**

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Aditya Kumar Son of Suresh Prasad Yadav@ Suresh Kumar Resident of  
Village- Bela Tola, Chamahi, Police Station- Chhaurando, District- East  
Champaran, Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Revenue Department,  
Govt. of Bihar, Patna.
2. The Collector Cum District Magistrate, East Champaran, Motihari.
3. The Dy. Collector Land Reforms, Raxaul, East Champaran, Motihari.
4. The Circle Officer, Chhauradano, District- East Champaran, Motihari.
5. Birendra Rai Son of late Ramautar Rai
6. Harnedra Rai son of late Ramautar Rai
7. Ganga Rai Son of late Mahendra Rai 5 to 7 are Residents of Village- Bela  
tola, Chamahi, Police Station- Chhauradano, District- East Champaran,  
Motihari.

... .. Respondent/s

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**Appearance :**

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|----------------------|---|-------------------------------|
| For the Petitioner/s | : | Mr. Dhurendra Kumar           |
| For the Respondent/s | : | Mr. Md.Khurshid Alam -AAG 12  |
|                      |   | Mr. Majid Meman, AC to AAG 12 |

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**  
**ORAL JUDGMENT**

**Date : 13-04-2018**

Heard learned counsels for the parties.

This writ application was registered on 21.2.2018 but no counter affidavit has been filed, however, in view of the nature of order this Court intends to pass, this Court is neither inclined to adjourn the matter for filing counter affidavit nor to issue notice to respondent nos. 5 to 7.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the public land appertaining to Khata No. 241, Plot No. 1829, situated in Village Bela Tola Chamahi,



which has encroached upon by respondent nos. 5 to 7 and due to such encroachment ingress and egress of the petitioner and others has been obstructed.

It is submitted by learned counsel for the petitioner that a public road is situated on the land appertaining to Plot No. 1829, Khata No. 241 of Thana No. 181, situated in village Bela and north of this plot, on Plot No. 1830 the house of the petitioner is situated. Part of the road and its flank has been encroached upon by the private respondent nos. 5 to 7, as a result, the petitioner and public at large are facing obstruction in reaching the main road. For removal of said encroachment, the petitioner submitted several applications before the authorities concerned and one of them is dated 28.6.2017, as contained in Annexure 1. Consequently, on the direction of respondent no. 4, Circle Officer, Chhauradano, the Circle Inspector and Revenue Karmchari, after making measurement of the land in question, submitted a report to the respondent no. 4, Circle Officer, Chhauradano to the effect that the land appertaining to Plot No. 1829 is Gairmajarua land and the road is situated on the said land and on part of garimajarua land respondent nos. 6 and 7, namely, Harendra Rai and Ganga Rai have constructed house and fixed cattle feeding pot and bamboo stump, as a result, the persons whose residential houses are situated on Plot No. 1830 are facing difficulty in reaching the main road. The respondent no. 4, Circle Officer, Chhauradano, vide Memo No. 673 dated 29.7.2017 directed respondent nos. 6 and 7 to vacate the land in land in question, but when the encroachment was not



removed, the petitioner approached respondent no. 3, DCLR, Raxaul, who vide letter no. 155 dated 30.8.2017, as contained in Annexure 3 directed the respondent no. 4, Circle Officer, Chhauradano to make spot verification, if the public land is found to have been encroached upon, remove the same and submit the action taken report. The petitioner also approached the Sub Divisional Public Grievance Officer, Raxaul, who vide order dated 17.10.2017, passed on the application no. 5021101469, directed respondent no. 4, Circle Officer, Chhauradano to get the encroachment removed from the land in question in accordance with law within sixty days and submit compliance report but same has not been submitted till date. Hence, this writ application.

Learned counsel for the official respondents submits that at present, he is not having any instruction whether the encroachment has been removed or not but if the encroachment has been made on the public land then an appropriate proceeding will be initiated and it will be taken to its logical conclusion within a time frame.

For initiating a proceeding under the Bihar Public land Encroachment Act (hereinafter referred to as the 'Act'), the only per-condition is that it should appear to the Collector under the Act from an application made by any person or upon the information received from any source that any person has made or is responsible for the continuation of encroachment upon any public land.



No doubt, in the present case, representation has been submitted before respondent no. 4, Circle Officer, Chhauradano on 28.6.2017 and consequently, after getting reports from the Circle Amin and Revenue Karmchhari, notices were issued to respondent nos. 6 and 7 vide notice dated 7.7.2017 and 29.7.2017 to vacate the land in question. Thereafter the petitioner approached the respondent no. 3, DCLR, Raxaul and Sub Divisional Public Grievance Officer, Raxaul but there is nothing on record to suggest that any action has been taken in pursuance to the said representations.

In the circumstances, the respondent no. 4, Circle Officer, Chhauradano is expected to examine the revenue records with regard to the land in question and if need be, make spot verification and on doing so, if it appears to him that the public land has been encroached upon, then he will initiate the proceeding under the Act within two weeks of the receipt/production of a copy of this order and will take such proceedings to its logical end within a period of three months thereafter, after giving due opportunity of hearing to all affected persons including respondent nos. 5 to 7 in accordance with the provisions of the Act.

This writ application is, accordingly, disposed of.

**(Dinesh Kumar Singh, J)**

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