

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.713 of 2018

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Ram Kripal Singh, Son of Late Bihari Singh, Resident of Village - Delhua, Police Station - Dinara, District - Sasaram.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Home Department, Govt. of Bihar, Patna.
2. The District Magistrate, Sasaram.
3. The Sub-Divisional Officer, Sasaram, District - Sasaram.
4. The Circle Officer, Kochas, District - Sasaram.
5. Rambadan Singh, son of Late Basudeo Singh.
6. Sadhu Charan Singh, son of Late Basudeo Singh.
7. Dhanwanti Devi, wife of Rambadan Singh.
8. Sumitra Devi, wife of Sadhu Charan Singh
9. Rambilas Singh, son of Late Munni Singh.

Respondent No. 5 to 9 are residents of Village - Delhua, Police Station - Dinara, District - Sasaram.

10. Urmila Devi, wife of Laxman Singh, resident of Village - Pannapur, P.S. - Dhansoi, District - Buxar.
11. Mostt. Pratima Singh, wife of Late Kumar Rudra Pratap Bahadur Singh, resident of Rabindra Devi, Extension Plot No. 14 Varanasi (U.P.).
12. Kumar Uday Pratap Bahadur Singh, son of Late Kumar Sripati Prasad Singh resident of Chaugai House Brahamanand Colony, Plot No. 76, Durga Kund Varanasi (U.P.)
13. Kumar Amitabh Singh, son of Late Kumar Rudra Pratap Bahadur Singh, resident of Village - Rabindra Puri, Extension Plot No. 14, Varanasi (U.P.).
14. Harendra Singh, son of Ram Lal Singh, resident of village - Pannapur, P.S. - Rajpur, District - Buxar.
15. Bashishtha Singh, son of Late Krishna Singh, resident of village - Akodha, P.S. - Dinara, District - Rohtas.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shyam Bihari Singh, Adv.
For the Respondent/s : Mr. Manish Kumar, GP-4

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date: 02-11-2018

Heard Mr. Shyam Bihari Singh, learned counsel appearing
for the petitioner and Mr. Manish Kumar, learned Government
Pleader No.4 for the State.



In the nature of the order that we propose to pass we do not consider it necessary to await filing of the counter affidavit although direction to such effect was earlier issued on 23.04.2018.

The petitioner complains of encroachment on a piece of land bearing Khata No.151, Plot Nos.907 and 910 having an area of 1.76 acres by respondent nos.5 to 15 on the basis of a sale-deed. According to the petitioner, the nature of the land is Pond and Pind and is in the nature of public land.

On query as to whether the petitioner has invoked the provisions of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') before the statutory authority, Mr. Singh, learned counsel appearing for the petitioner has invited our attention to a representation filed before the District Magistrate, Rohtas at Annexure 5 which, in our opinion, is not sufficient to initiate a statutory proceeding.

In our opinion, where 'the Act' prescribes a procedure for initiating a proceeding, any person making complaint against alleged encroachment of public land, has to abide by the obligation so set out therein by filing a statutory application before the Collector under 'the Act' in the manner spelt out as also by demonstrating the extent of encroachment. The petitioner has failed to discharge his obligation and a simple representation would not cure the default.



In the circumstances so noted and for the present we dispose of the writ petition with liberty to the petitioner to take recourse to the procedure provided under ‘the Act’ if he is aggrieved by the alleged encroachment by filing a statutory application in the manner spelt out under ‘the Act’ as discussed above and it goes without saying that should the petitioner file any such application, the Collector under ‘the Act’ would proceed accordingly to dispose of the same in accordance with law with due opportunity of hearing to the contesting parties including the alleged encroachers.

With the observation aforementioned the writ petition is disposed of.

(Jyoti Saran, J)

(Nilu Agrawal, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20-11-2018
Transmission Date	NA

