

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7 of 2018

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Sohrab Hussain Son of Maqbool Ahmad Resident of Mohalla - Jafar Tola (Ward No. 17), P.O. + P.S. Barauli, District - Gopalganj.

.... Petitioner

Versus

1. The State of Bihar.
2. The Commissioner, Saran Division at Chapra.
3. The Collector Cum District Magistrate, Gopalganj.
4. The Sub Divisional Officer, Gopalganj.
5. The Circle Officer, Barauli, Gopalganj.
6. Md. Alauddin Son of Late Abdul Jalil Resident of Mohalla - Jafar Tola, Ward No. 17, P.O. & P.S. Barauli, District - Gopalganj.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Shafiur Rahman, Adv.

For the Respondent/s : Mr. Sajid Salim Khan, SC25

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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: 26-10-2018

Heard the parties.

The petitioner complains of encroachment over a Gairmazarua Aam Land by respondent no. 6 bearing Khata No. 733, Khesra No. 2451, Thana No. 253, Mauza-Jafar tola, Ward No. 17, P.O., P.S. and Circle - Barauli in the District of Gopalganj.

Mr. Sajid Salim Khan, learned SC 25, informs in reference to the pleadings that there is a Title Suit going on between the parties but we shall express no opinion thereon because in case the nature of the land is Gairmazarua Aam, then the petitioner has a right to invoke the provisions of Bihar Public Land Encroachment Act (hereinafter



referred to as ‘the Act’) and it would be for the Collector under ‘the Act’ to consider the issue. However, we find that the petitioner has failed to invoke the provisions of ‘the Act’, inasmuch as his complaint is through registered post. ‘The Act’ provides a complete scheme and even though the manner of disposal is summary but it needs to be invoked by filing a complaint under Section 3 of ‘the Act’ which would necessarily contain the names of the encroachers as well as the extent of encroachment and only whereafter the Collector under ‘the Act’ needs to proceed thereon for disposal in accordance with law.

The petitioner having failed to do so, the writ petition is held not maintainable. The petitioner, if so advised, can take recourse to the forum provided under ‘the Act’ by filing appropriate application to such effect and in case any such complaint is made, it goes without saying that the Collector under ‘the Act’ would proceed to dispose of the same in accordance with law.

With the observations aforementioned, the writ petition is disposed of.

(Jyoti Saran, J)

(Nilu Agrawal, J)

Archana/ Surendra

AFR/NAFR	NAFR
CAV DATE	NA
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