

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13667 of 2017

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Santosh Kumar Yadav, Son of Shambhu Prasad Yadav, Resident of Village-
Banharwa, Bishunpurwa, Police Station- Adapur, District- East Champaran,
Motihari. Petitioner

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 Sub Divisional Officer cum Public Complaint Redressal Officer, Raxaul,
District- East Champaran, Motihari.
4. The Circle Officer, Adapur, District- East Champaran, Motihari.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Dhurendra Kumar
For the Respondent/s : Mr. SAJID SALIM KHAN -SC25

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 27-03-2018

Heard Mr. Bhola Prasad, learned counsel for the petitioner
and learned AC to SC-25 for the respondent-State.

Since the present writ application was registered on
14.09.2017, but till date no counter affidavit has been filed, hence,
this Court is not inclined to adjourn the matter any further.

The present writ application has been filed for a direction to
the respondent authorities, particularly respondent nos. 2 and 4, the
District Magistrate, East Champaran and the Circle Officer,
Adapur to get the encroachment removed from the public
road/land, appertaining to Khata No. 3, Plot No. 1449, situated in
Village Laxmipur, Pokhariya Tola, Banharwa, P.S. Adapur, District
East Champaran.



It is submitted by learned counsel for the petitioner that the land/road in question is a public land, but the same has been encroached upon by some of the villagers. For removal of the encroachment from the land in question, an application was submitted before respondent no.4, the Circle Officer, Adapur on 15.05.2015, as contained in Annexure-1. Consequently, a proceeding, being Encroachment Case No. 08 of 2015-16, has been initiated under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') and notices were issued to the so called encroachers, initially fixing the date on 14.02.2017 and thereafter 27.02.2017, but the encroachers did not appear. The petitioner, finding that encroachment proceeding is not proceeding any further, filed a complaint, being Case No. 50211-00881, before respondent no.3, the Sub-Divisional, Public Grievance Redressal Officer, Raxaul under the Public Grievance Redressal Act, wherein, respondent no.3, the Sub-Divisional Public Grievance Redressal Officer, Raxaul, after hearing the matter on several dates, vide order dated 18.03.2017, directed respondent no. 4, the Circle Officer, Adapur to conclude the encroachment proceeding as soon as possible and to submit the compliance report, but even then, the proceeding of Encroachment Case No. 08 of 2015-16 has not been concluded till date. Hence, the present writ application.



Learned AC to SC-25 submits that at present, she is not having any instruction whether the proceeding of Encroachment Case No. 08 of 2015-16 has been concluded till date or not, but if the same has not been concluded till date, a direction may be given to respondent no.4, the Circle Officer, Adapur to conclude the same within a time frame.

Considering the rival submissions of the parties, this Court is of the view that for initiating a proceeding under Section 3 of the Act, the only precondition is that it should appear 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 the encroachment over public land.

In the present case, initially a petition was submitted before respondent no.4, the Circle Officer, Adapur on 15.05.2015 and consequently, he initiated a proceeding under the Act, but it appears that more than two years have lapsed, but there is nothing on record to suggest that the proceeding of Encroachment Case No. 08 of 2015-16 has been concluded till date. No doubt, no time frame has been fixed under the Act or under the Rule, for concluding such proceeding, but that does not mean that quasi judicial proceeding can be prolonged for years together,



particularly when the question is for removal of encroachment from a public land.

Prima facie, this Court dismayed to find the casual manner in which the Circle Officer is conducting the quasi judicial proceeding.

In the circumstances, it is expected from respondent no.4, the Circle Officer, Adapur to take the proceeding of Encroachment Case No. 08 of 2015-16 to its logical conclusion, if the same has already not been concluded till date, within a period of two months from the date of receipt/production of a copy of this order, after giving due opportunity of hearing to all affected persons, in accordance with the provisions of the Act.

Accordingly, with the above observation and direction, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	09.04.2018
Transmission Date	

