

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17331 of 2017

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Sunil Kumar, Son of Late Birendra Prasad, Resident of Village- Sariswa Bazar, Circle- Majhauilya, Police Station- Majhauilya, District- West Champaran.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Land Reforms Department, Government of Bihar.
2. The District Magistrate, West Champaran at Bettiah.
3. The Superintendent of Police, West Champaran at Bettiah.
4. The Sub Divisional Magistrate, Bettiah Sadar, District- West Champaran.
5. The Officer in Charge, Majhauilya Police Station, District- West Champaran.
6. The Circle Officer, Majhauilya Circle, District- West Champaran.
7. The Circle Amin, Majhauilya Circle, District- West Champaran.
8. The Revenue Karamchari of Village- Sariswa Bazar, Circle Majhauilya, Police Station- Majhauilya, District- West Champaran.
9. Samtullah Mian, Son of Bhola Mian.
10. Meerhasan Mian, Son of Jugali Mian.
11. Gauri Shankar Sah, Son of Late Prasad Sah. All are Resident of Village- Pipra Dubey, Police Station + Circle- Majhauilya, District- West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar No.-7
For the Respondent/s : Mr. SAJID SALIM KHAN -SC25

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 13-02-2018

Heard Mr. Sanjay Kumar No.7, learned counsel for the petitioner and Mr. Sajid Salim Khan, learned SC-25 for the respondent-State.

Since the present writ application was registered on 23.11.2017, but till date no counter affidavit has been filed. Hence, this Court is not inclined to adjourn the matter any further for filing counter affidavit.



In view of the nature of order this Court intends to pass, this Court is not inclined to issue notice to private respondent nos. 9 to 11.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the public land/road appertaining to Thana No. 216, Khata No. 119, Plot No. 618, situated in Mauza Pipra Dubey, Circle Manjhaulia, District West Champaran, which has been encroached upon by private respondent nos. 9 to 11.

It is submitted by learned counsel for the petitioner that the land in question is recorded in the Revenue Record as Gairmajarua Aam Rasta, which is being used by the public at large as public road, but the same has been encroached upon by private respondent nos. 9 to 11, as a result of which, the ingress and egress of the petitioner from his raiyati land, appertaining to Thana No. 216, Khata No. 77, Plot No. 510 has completely been obstructed. For removal of the encroachment from the land in question, the petitioner submitted an application on 20.06.2013, before respondent no.6, the Circle Officer, Majhauilya, as contained in Annexure-1, whereupon, respondent no.6, the Circle Officer, Majhauilya directed the Circle Amin to measure the land in question. Consequently, the Circle Amin, after measuring the land



in question, submitted a report to respondent no.6, the Circle Officer, Manjhauliya, on 18.06.2014, as contained in Annexure-2, stipulating therein that the land in question is a public land/road, but the same has been encroached upon by private respondent nos. 9 to 11. The Revenue Karamchari also conducted an enquiry and submitted his report on 27.06.2013, as contained in Annexure-3, stipulating therein that the land in question is a Gairmajarua Aam Rasta, but the same has been encroached upon by private respondent nos. 9 to 11, but till date neither any proceeding under the Bihar Public Land Encroachment Act (hereinafter referred to as 'the Act') has been initiated, nor the encroachment has been removed. Hence, the present writ application.

Learned SC-25 submits that at present he is not having any instruction whether the proceeding under the Act has been initiated or not or whether the encroachment has been removed or not, but if the public land has been encroached upon and till date no proceeding has been initiated, then the same will be initiated forthwith and it will be taken to its logical conclusion within a time frame.

Considering the rival submissions of the parties, this Court is of the view that for initiation of 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 persons has made or is responsible for the continuation of the encroachment over a public land. In the present case, it appears that the representation was submitted by the petitioner to respondent no. 6, the Circle Officer, Manjhauliya as far back as on 20.06.2013, as contained in Annexure-1 and consequent to that, reports were submitted by Circle Amin and Revenue Karamchari on 18.06.2014 and 27.06.2013, as contained in Annexures- 2 and 3, respectively, but there is nothing on record to suggest that any proceeding under the Act has been initiated till date.

In the circumstances, respondent no.6, the Circle Officer, Manjhauliya is directed to examine the Revenue Record, and if need be, conduct spot verification, whereupon if it appear to him that the land in question is a public land and the same has been encroached upon, then he will initiate a proceeding under the Act forthwith, if it has already not been initiated, and will take such proceeding to its logical conclusion within a period of four months from its initiation, after giving due opportunity of hearing to all affected persons, including private respondent nos. 9 to 11, in accordance with the provisions of the Act.



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

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	21.02.2018
Transmission Date	

