

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18762 of 2017

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Umesh Singh, Son of Late Deonandan Singh, Resident of Village- Sondhi,
P.O.- Sondhi, Police Station- Buniyadganj, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner, Magadh Division, Gaya.
2. The District Magistrate, Gaya.
3. The Sub Divisional Officer, Sadar, Distt.- Gaya.
4. The Circle Officer, Manpur, District- Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No-2
For the Respondent/s : Mr. RISHI RAJ SINHA -SC19

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 08-03-2018

Heard Mr. Manish Kumar No.-2, learned counsel for the petitioner and Mr. Akhilesh Kumar Sinha, learned AC to SC-19 for the respondent-State.

Though the present writ application was registered on 18.12.2017, 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 to get the encroachment removed from the public land appertaining to Khata No. 161, Plot No. 600,



situated at Village Sondhi, Police Station Buniyadganj, District Gaya.

It is submitted by learned counsel for the petitioner that the land in question is recorded in the Khatiyani as Sarv Sadharan and on the said land there exists a pond which is being used by the public at large, but the same has been encroached upon by erecting huts. After repeated request and protests, public petitions were submitted before the Divisional Commissioner, District Magistrate, Sub-Divisional Officer and other officials on 24.06.2015, 25.06.2016 and 08.01.2016, as contained in Annexure-2 (series), but even then no action was taken for removal of the encroachment from the land in question. Ultimately, the petitioner submitted an application before respondent no.3, the Sub-Divisional Officer, Sadar, Gaya on 17.05.2015, when he made an enquiry and directed respondent no.4, the Circle Officer, Manpur to submit a report to the effect that the enquiry was made by the Revenue Clerk and Circle Amin who suggested that the land in question is a public land and the same has been encroached upon. Consequently, respondent no.3, the Sub-Divisional Officer, Sadar, Gaya, vide order dated 24.07.2017, as contained in Annexure-3 directed respondent no.4, the Circle Officer, Manpur to get the encroachment removed. The



enquiry was also conducted at the level of the Sub-Divisional Officer, Sadar, Gaya and it was found that the public land has been encroached upon but the encroachment was not removed. Subsequently, the petitioner preferred an appeal before the Additional Collector cum 1st Appellate Forum under the Public Grievance Redressal Act, but he disposed of the application after giving direction for rehabilitation to the encroachers on some other land, but till date, the encroachment has not been removed. Hence the present writ application.

Learned AC to SC-19 submits that at present, he is not having any instruction whether the encroachment proceeding has been initiated under the Bihar Public Land Encroachment Act (hereinafter referred to as 'the Act') or not or whether the encroachment has been removed or not.

Considering the rival submissions of the parties, this Court is of the view that the Public Land Encroachment Act, 1956 was enacted for getting the encroachment removed from the public land. For initiation of proceeding under Section 3 of the Act, the precondition is that it should appear to the Collector under the Act from any application made by any person or upon information received from any sources that any person has made or is



responsible for the continuation of the encroachment upon the public land.

No doubt in the present case, it appears from the materials on record that in view of the measurement made by the Circle Amin and enquiry report submitted by the Revenue Clerk, the respondent authorities, particularly respondent no.4, the Circle Officer, Manpur, came to know that the land in question being a public land, has been encroached upon, but there is nothing on record to suggest that any proceeding under the Act has been initiated till date, which clearly suggests the abdication of *quasi judicial* jurisdiction by the respondent authorities, particularly respondent no.4.

In the circumstances, in view of the discussions made above, it is expected from respondent no.4, the Circle Officer, Manpur to examine the Revenue Records and if need be, conduct spot verification, whereupon if it appears to him that the land in question is a public land and the same has been encroached upon, then he will initiate a proceeding 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, 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	13/03/2018
Transmission Date	

