

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1952 of 2018

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Harendra Prasad Yadav, S/o Late Mahadev Rai, Resident of Village- Chilraon,
P.O.- Jaisinghpur, P.S.- Turkolia, Anchal- Turkolia, District- East Champaran,
Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, East Champaran, Motihari.
2. The Collector East Champaran, Motihari, District- East Champaran, Motihari.
3. The Sub-Divisional Officer, Motihari Sadar, District- East Champaran, Motihari.
4. The Senior Superintendent of Police, East Champaran, Motihari.
5. The S.H.O. (Officer-in-Charge) Turkolia Police Station, Turkolia, District- East Champaran, Motihari.
6. The Anchal Adhikari, Turkolia Anchal in the district of East Champaran, Motihari.
7. Lal Babu Rai, S/o Late Wakil Rai,
8. Bisundeo Rai, S/o Late Jagdish Rai,
9. Sunil Rai, S/o Late Jag Narayan Rai,
10. Wakil Rai, S/o Late Fakira Rai,
11. Kuldip Rai, S/o Late Bali Rai,

All respondent no.7 to 11 are resident of Village- Chilraon, P.S.- Turkolia,
District- East Champaran, Motihari.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bhupendra Prasad, Adv.
For the Respondent/s : Mr. S.C. Yadav-GP-15

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date : 19-06-2018

Heard learned counsels for the petitioner and the
respondent-State.

The present Writ application has been filed for a
direction to the respondent authorities to get the encroachment
removed from the government land appertaining to Khata
No.66, Plot No.415, situated near Turkolia, P.S.-Turkolia,



District-East Champaran, Motihari.

Since the Writ application was registered on 31.01.2018, but no counter affidavit has been filed till date and in view of the nature of order this Court intends to pass, this Court is neither inclined to adjourn the matter nor inclined to issue notice to private Respondent No. 7 to 11.

It is submitted by learned counsel for the petitioner that the land in question is public road, but the same has been encroached upon by private Respondent Nos. 7 to 11, as a result the road has substantially been blocked. The petitioner submitted an application dated 04.03.2016, as contained in Annexure-1, before the Respondent No.6, the Circle Officer, Turkolia for getting the encroachment removed from the land in question. Consequently, the Circle Officer directed the Anchal Amin vide Memo N.203, dated 12.04.2016 for measurement of the land in question and in pursuance to the same, the Anchal Amin submitted the report on 21.06.2016, as contained in Annexure-2. Thereafter, the Circle Officer issued notice to Respondent nos. 7 to 9 and others on 04.07.2016, as contained in Annexures 3 to 7. Subsequently, a report was submitted by the Halka Karmchari to the Circle Officer on 03.03.2016, as contained in Annexure-8, suggesting encroachment made by



private respondents and others over the land in question. Thereafter, the Circle Officer again issued notice to private Respondent Nos. 7 to 11 vide Notice dated 18.07.2016, as contained in Anneuxre-9, but till date encroachment has not been removed. Thereafter, the petitioner submitted an application on 31.07.2017, as contained in Annexure-10, before the Respondent No.6, the Circle Officer, Turkolia, but till date neither any encroachment proceeding has been initiated, nor the encroachment has been removed. Hence, the present writ application.

It is submitted by Mr. S.C. Yadav, learned GP-15 that, at present, he is not having any instruction whether the land in question is a public land/road or not, but if it is a public land/road and the same has been encroached upon, then a proper proceeding under the provisions of the Act will be initiated forthwith, if it has not been initiated and the same will be taken to its logical conclusion within a time frame.

Having heard learned Counsels for the parties, the sine qua non for initiating a proceeding for removal of encroachment is prescribed under Section 3 of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') which stipulates that if it appears 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 any encroachment upon any public land, he will initiate a proceeding under the Act.

No doubt, in the present case, the petitioner submitted application for getting the encroachment removed twice, before the Respondent No.6, the Circle Officer, Turkolia, firstly on 04.03.2016, as contained in Annexure-1, and secondly on 31.07.2017, as contained in Annexure-10, whereupon, the measurement report was submitted on 21.06.2016, as gets reflected from Annexure-2 by the Anchal Amin and consequently notices were issued to the encroachers on 04.07.2016, but there is nothing on record to suggest that any proper proceeding has been initiated till date. The inaction of the respondent authorities, particularly, the Respondent No.6, the Circle Officer, Turkolia is a complete abdication of *quasi judicial* function.

In the circumstances, the Respondent No.6, the Circle Officer, Turkolia is expected to examine the revenue records and if need be make spot verification in view of the report of the Anchal Amin dated 21.06.2016, as contained in Annexure-2, whereupon, if it appears to him that public road/land has been



encroached upon, then he will initiate a proceeding forthwith with regard to the land in question in accordance with the provisions of Act, if it has not already been initiated and take such proceeding to its logical conclusion within a period of three months, by giving due opportunity of hearing to all affected persons, including the petitioner and Respondent Nos. 7 to 11, in accordance with the provisions of the Act.

The Writ application is, accordingly, disposed of with the observation aforesaid.

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	04.07.18
Transmission Date	N.A.

