

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 17751 of 2017

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Rajendra Singh, S/o Late Ram Lagan Singh, Resident of Village- Ratna, P.S.-
Rajgir, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Collector cum District Magistrate, Nalanda.
3. The Additional Collector, Nalanda.
4. The Sub-Divisional Officer, Rajgir, District- Nalanda.
5. The Land Reforms Deputy Collector Rajgir, District- Nalanda.
6. The Circle Officer, Rajgir, District- Nalanda.
7. Indradeo Prasad, S/o Kailash Mahto,
8. Chandrika Mahto,
9. Sidheshwar Mahto, Both sons of Arvind Mahto,
10. Shambhu Mahto, S/o Saryug Mahto,
11. Rameshwar Yadav, S/o Garib Yadav,
12. Ram Pravesh Yadav,
13. Ajay Yadav, Both sons of Shri Yadav,
14. Lalu Yadav, S/o Baleshwar Yadav,
15. Sadan Choudhary,
16. Chuni Choudhary,
17. Chander Choudhary, all three sons of Late Darogi Chaudhary, All residents of Village- Ratna, Tola- Kharjama, P.S.- Rajgir, District- Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr Braj Kishore Singh Chouhan, Advocate
For the S t a t e : Mr Sangha Mitra Ghosh, AC to GP XV

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CORAM: HONOURABLE DR JUSTICE RAVI RANJAN
and
HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE DR JUSTICE RAVI RANJAN)

Date : 10-10-2018

This writ petition has been filed for removal of encroachment from the public land, in the nature of pond, appertaining to Khata No 87, Khesra No 1087 which, according to



the writ petitioner, is a source of irrigation for the villagers. It is stated that *Encroachment Case No 2 of 2017-2018* (State -Versus- Indradeo Prasad & Others) was initiated.

2 A direction was given to the Circle Officer, Rajgir to file counter affidavit. Even though opportunity having been granted, since no counter affidavit could be filed, he was directed to appear in person. Today, he is present. Show cause and a counter affidavit have been filed. In the show cause, stand has been taken that he has joined only on 23.07.2018 and, as such, he could not get the knowledge and file affidavit within the time granted by this Court. Such explanation is accepted.

3 A counter affidavit has also been filed stating that a final decision has already been taken on 06.10.2018 for removal of encroachment from 2.72 acres of land of the pond having been encroached by several encroachers and, thereafter, he has also fixed the date for removing the encroachment on 20.11.2018 and also sought the assistance of the District Administration.

4 Learned counsel for the petitioner, at this juncture, submits that in fact the area of encroachment has been reduced from 5.03 acres to 2.72 acres and, as such, it appears that the State officials are bent upon to protect the encroachers.



5 However, we do not find any force in such type of submission. The original record has been produced before us from which it appears that it was recorded in the order dated 29.04.2017 of the Encroachment Case No 2 of 2017-2018 that the encroachment was to the extent of 23.43 acres and notices were issued to the encroachers under Section 3 of the Bihar Public Land Encroachment Act, 1956. In response to the notice, the alleged encroachers appeared and expressed their dissatisfaction with the measurement done by the Anchal Amin and urged for remeasurement of the land. On remeasurement of the land, which would be apparent from order dated 03.07.2018, it appears that encroachment came down to only 2.72 acres. Thereafter, several orders were passed and finally, as stated above, a decision was taken to remove encroachment from 2.72 acres of land.

6 In such a situation, since final order has been passed, there is no requirement to proceed further in this matter. However, if the writ petitioner is still aggrieved then he would have a liberty to move before the competent forum which is available to him in law/under the Act.

7 This writ petition is disposed of with a direction to proceed in accordance with law to bring encroachment case to its logical conclusion.



8 However, it is made clear that if any encroacher files an appeal and succeeds in getting interim relief prior to that, steps would have to be taken in accordance with law by the Circle Officer.

9 It further goes without saying that necessary assistance should also be provided by the Sub-Divisional Officer by providing necessary police force etc on the date fixed subject to any interim relief granted to the encroacher by any competent Court.

(Dr Ravi Ranjan, J)

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.10.2018
Transmission Date	NA

