

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18698 of 2017

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Surendra Sah, Son of Ramchandra Sah, Resident of Village- Harpur Beni,
Rupauli, Police Station- Saraiya, District- Muzaffarpur.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary Government of Bihar, Patna.
2. The State of Bihar through the Principal Secretary, Revenue & Land Reforms
Deptt. Government of Bihar, Patna.
3. The District Magistrate, Muzaffarpur.
4. The Sub Divisional Officer, West Muzaffarpur.
5. The Circle Officer, Saraiya, Muzaffarpur.
6. Vijay Singh, Son of late Harishankar Prasad Singh, Resident of Village-
Manikpur, Police Station- Saraiya, District Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Rajpati, Adv.
For the Respondent/s : Mr. Raj Kishore Roy, GP-18

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 31-07-2018

Heard Mr. Pramod Rajpati, learned counsel for the
petitioner and Mr. Raj Kishore Roy, learned GP-18, for the
respondent-State.

In view of the nature of order, this Court intends to pass,
this Court is not inclined either to adjourn the matter any further or
to issue notice to private Respondent No. 6.

The present writ application has been filed for getting
the encroachment removed from the public road which runs from
NH-102 to native village of the petitioner being Harpur Beni,
Rupauli.



It is submitted by learned counsel for the petitioner that the road was earlier the part of the land, appertaining to Khata No.1, Plot No.85, which belonged to one Gayatri Devi, wife of Late Harishankar Prasad Singh, but after death of her husband, Gayatri Devi sold the land in question to several persons, leaving 11 feet wide road in the western side of the land in question. Respondent No.6, who happens to be the son of the Gayatri Devi, has constructed the shop on the road in question, obstructing the same since 17.02.2013, and due to blockage of the road, the petitioner and public at large have to face great difficulty in approaching to the National Highway.

For removal of the encroachment from the land in question, an application was transmitted to Respondent No. 5, the Circle Officer, Saraiya, on 15.11.2017, as contained in Annexure-1, a copy of the same was also transmitted to Respondent No.3, District Magistrate, Muzaffarpur, but till date neither any proceeding under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act'), has been initiated nor the encroachment has been removed from the land in question. Hence, the present writ application.

Learned GP-18, submits that at present, he is not having any instruction whether the land in question is a public land/road



or not, but if the public land/road has been encroached upon then appropriate proceeding, under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') will be initiated and the said proceeding will be taken to its logical conclusion within a time frame.

Having heard learned counsels for the parties, this Court is of the view that for initiation of the proceeding under Section 3 of the Act, the only pre-condition is that if it should appear to the Collector under the Act from an application made by any person or upon information received from any sources that a person has made or is responsible for the continuation of the encroachment over the public land.

A public land has been defined under Section 2 (3) of the Act which includes the land vested in the Union of India or the State of Bihar, or in any local authority or statutory body, public undertaking, educational institution recognised by the Government or by any University established under any law for the time being in force, Railway Company or Gram Panchayat established under, Section 3 of the Bihar Panchayat Raj Act, 1947 (Bihar Act VII of 1948), and includes any land over which the public or the community has got a right of user, such as right of way, burials, cremation, pasturage or irrigation or the land which is even not



recorded as a public land in revenue records, but if it is being used by public at large then it can be treated as public road/land.

In the circumstances, it is expected from the Circle Officer, Saraiya, to examine the revenue records and if need be conduct spot verification of the land in question, whereupon, if it appears to him that the land in question is a public land/road or if the same is being used by public at large, and the same has been encroached upon, then he will initiate a proceeding forthwith, if it has already not been initiated as yet, and will take such proceeding to its logical conclusion within a period of four months from its initiation, after giving due notice to all affected persons, including the petitioner and private Respondent No. 6, in accordance with the provisions of the Act.

Accordingly, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

