

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.8767 of 2018**

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Dharmendra Kumar @ Dharmendra Kumar Singh, son of Late Kaushlendra Prasad @ Kaushlendra Prasad Singh, Resident of Village- Geruari, P.S.- Bakhtiyarpur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Patna.
2. The Collector, Patna.
3. The Sub Divisional Officer, Barh, Patna.
4. The Deputy Collector, Land Reforms, Barh, Patna.
5. The Circle Officer, Bakhtiyarpur, Patna.
6. The Public Complaint Redressal Officer, Barh.
7. Naresh Rai.
8. Arjun Rai.
9. Surendra Rai @ Dhunna.

All are sons of late Prayag Rai, Resident of Village Geruari, P.S.- Bakhtiyarpur, District- Patna.

... .. Respondent/s

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**Appearance :**

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|----------------------|---|--------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Awadhesh Kumar Mishra, Adv.<br>Mr. Shivpujan Sahay, Adv. |
| For the Respondent/s | : | Ms. Sanghmitra Ghosp, AC to 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 public land appertaining to Plot No.282, Khata No.116, situated at Village - Geruari, P.S.- Bakhtiyarpur, District – Patna. The land in question is recorded in the Khatian as ‘Gair Majarua Aam Land’ but the same has been encroached



by Respondent nos. 7 to 9.

Since the Writ application was registered on 03.05.2018, 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 nos. 7 to 9.

It is submitted by learned counsel for the petitioner that the land in question is 'Gair Majarua Aam Land' and the same has been encroached upon by Respondent nos. 7 to 9. The petitioner's raiyati land appertaining to Plot Nos.286/287 is situated towards north-east side of the land in question. There is a pond within the said area of the land in question. The petitioner erected boundary wall adjacent to the said 'Gair Majarua land, so that during rainy season, the soil from his land does not flow away in the pond. But the private Respondents started filling the said pond with mud and made encroachment over the land in question by constructing houses. For removal of encroachment, the petitioner made a complaint on 06.09.2017, as contained in Annexure-1, before the Respondent No.4, the DCLR, Barh. Earlier, the petitioner represented before the Respondent No.5, the Circle Officer, Bakhtiarpur for removal of encroachment, but the neither the Circle Officer, nor the DCLR



took any steps for redressal of grievance of the petitioner. Thereafter the petitioner submitted a representation dated 25.10.2017, as contained in Annexure-2 before the Respondent No.2, the District Magistrate, Patna. The petitioner also submitted complaint dated 09.11.2017, as contained in Annexure-3, before the Respondent No.3, the SDO, Barh. Subsequently, the petitioner made representation before the Respondent No.5, the Circle Officer, Bakhtiarpur, but even then his grievance has not been redressed. Thereafter, the petitioner made complaint on 27.11.2017, as contained in Annexure-5, before the Respondent No.6, the Public Grievance Redressal Officer, Barh. But till date neither any encroachment proceeding has been initiated nor encroachment has been removed from the land in question. Hence the present writ application.

It is submitted by AC to GP-15 that, at present, she is not having any instruction whether the land in question is a public land or not, but if it is a public land 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, the petitioner represented before the several authorities, including Respondent No.5, the Circle Officer, Barh as far back as on 13.11.2017, as gets reflected from Annexure-4 , but there is nothing on record to suggest that any proceeding has been initiated till date or any effort has been taken to come to the finding whether the land in question is a public land.

In the circumstances, the Respondent No.5, Circle Officer, Bakhtiarpur is expected to examine the revenue records and if need be make spot verification, whereupon, if he finds 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 9 in accordance with the provisions of the Act.

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

**(Dinesh Kumar Singh, J)**

Ashwini/-

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