

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11761 of 2018

Nibha Devi, W/o- Late Janmejai Prasad, Resident of Village- Amnaur
Harnarayan, P.O.- Amnaur, P.S.- Amnaur, District- Chhpra (Saran).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Land Revenue and Reforms Department, Govt. of Bihar, Patna.
2. The District Magistrate, Chapra (Saran).
3. The Superintendent of Police, Chapra (Saran).
4. The Deputy Superintendent of Police, Chapra (Saran).
5. The S.H.O. of Amnaur, District- Chapra (Saran).
6. The Circle Officer, Chapra (Saran).

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Arvind Kumar, Adv.
For the Respondent/s : Mr. Rishi Raj Sinha -SC 19

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 04-07-2018

Learned counsel for the petitioner is permitted to make necessary correction in the petition.

Heard Mr. Arvind Kumar, learned counsel for the petitioner and Mr. Saurabh Kumar, learned AC to SC-19 for the respondent-State.

Though, the present writ application was registered on 25.06.2018, but in view of nature of order this Court intends to pass, 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, particularly, Respondent No.6, the Circle Officer, Amnaur to the get the encroachment



removed from the public main road situated at Amnaur Harnarayan Bypass, particularly in front of Block Road (near Mahamaya Asthan), specifically in front of land, appertaining to Khata No. 73, Plot Nos. 991, 992, 993, 989 and 990, Thana No. 178, situated in Mauza Amnaur, District Saran.

It is submitted by learned counsel for the petitioner that the land in question is a public land/road, but the same has been encroached upon by several persons. For removal of the encroachment from the land in question, representation was submitted to Respondent No.6, the Circle Officer, Amnaur on 05.06.2018, as contained in Annexure-2, and a copy of the same was transmitted to all the competent authorities including Respondent No.2, the District Magistrate, Chapra (Saran), but till date no action has been taken for removal of the encroachment from the land in question. Hence, the present writ application.

Learned AC to SC-19 submits that, at present, he is not having any instruction, but if the land in question is a public land and the same has been encroached upon, then a proper 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.



Considering the rival submissions of the parties, this Court is of the view that for initiating a proceeding under Section 3 of the Act, the only pre-condition is that it should appear to the Collector under the Act from an application made by any person or upon information received from any sources that any person has encroached upon the public land.

In the present case, this is not in dispute that the representation was submitted before Respondent No.6, the Circle Officer, Amnaur on 05.06.2018, but there is nothing on record to suggest that any action has been taken for removal of the encroachment from the land in question.

Though the petitioner has mentioned the name of the encroachers in paragraph no.6 of the petition as well as in the representation submitted before the Circle Officer, but they have not been party respondent in the present proceeding.

In the circumstances, it is expected from Respondent No.6, Circle Officer, Amnaur to examine the Revenue Records, and if need be, conduct spot verification and conduct the measurement of the land in question, whereupon if it appears to him that the land in question is a public land and same has been encroached upon, then he will initiated a proceeding under the Act 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 including the petitioner and the persons whose names have been mentioned in paragraph no.6 of the petition as well as in the representation submitted before the Circle Officer, 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	
Transmission Date	

