

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15465 of 2018

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Arbind Kumar Dubey, Son of Parmeshwr Dubey, Resident of Village-
Sathwar (Brititola), P.S.- Goreyakothi, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Land Reform, Patna.
 2. The District Magistrate, Siwan.
 3. The Sub-Divisional Officer, Maharajgaj, Siwan.
 4. The Circle Officer, Goreyakothi, Siwan.
 5. Rinku Shukla, Son of Late Bahoran Shukla.
 6. Mintu Shukla, Son of Late Bahoran Shukla,
 7. Galor Shukla, Son of Late Bahoran Shukla,
- Respondent Nos. 5 to 7 are resident of Village- Sathwar (Britigola), P.S. Goreyakothi, District- Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anirudh Kumar Verma, Adv.
For the Respondent/s	:	Ms. Rekha Kumari, AC to GP-18

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 07-08-2018

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 Khata No.439, Survey No.301, P.S. Nos. 88 and 89, Circle – Goriyakothi, District-Siwan, which is recorded as ‘Gair Majarua Aam Land’,.

Since the writ application has been registered on 03.08.2018, 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. 5 to 7.

It is submitted by learned counsel for the petitioner that the land in question is used as pathway by the public at large, but the same has been encroached upon by Private Respondent Nos. 5 to 7. The petitioner's father, Parmeshwar Dubey submitted a representation on 06.01.2017, before the Respondent No.4, the Circle Officer, Goreyakothi, Siwan, as contained in Annexure-2, with a prayer for getting the encroachment removed from the land in question. Thereafter, the petitioner's father submitted another representation on 31.01.2017 with similar prayer before the Circle Officer, as contained in Annexure-3. But the Circle Officer did not take any action on the representations either to initiate a proceeding or to get the encroachment removed, whereupon, the father of the petitioner submitted a representation on 18.02.2017, before the Respondent No.2, the District Magistrate, Siwan, as contained in Annexure-4 and thereafter, the petitioner and the co-villagers submitted a representation on 03.06.2017 before the Respondent No.1, the Principal Secretary, Department of Land Reforms, Patna, as contained in Annexure-5 for removal of the encroachment from the land in question. But till date, neither



any encroachment proceeding has been initiated with regard to the land in question, nor the encroachment has been removed from the land in question. Hence, the present writ application.

It is submitted by learned AC to GP-18 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 Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as '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.

Section 3 of the Act 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.

In the present case, it is claimed by the petitioner that representations were submitted before the Respondent No.4, the Circle Officer, Goreyakothi, Siwan, on 06.01.2017 and 31.01.2017, which gets reflected from the Annexures- 2 and 3, but there is nothing on record to suggest that any proceeding has



been initiated by the Circle Officer till date or any effort has been made to come to the finding whether the land in question is a public land or not.

In the circumstances, the Respondent No.4, the Circle Officer, Goreyakothi, Siwan is expected to examine the revenue records and if need be, to conduct spot verification, 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 will take such proceeding to its logical conclusion within a period of three months, by giving due opportunity of hearing to all affected persons, including Private Respondent Nos. 5 to 7 and the petitioner, in accordance with the provisions of the Act.

Accordingly, the writ application stands disposed of with the observation aforementioned.

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

