

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16225 of 2018

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Mukesh Giri, S/o Abhay Narayan Giri, Resident of Village- Tiara, P.O. Manoharpur, P.S. Rajpur, District Buxar.

... .. Petitioner

Versus

1. The State of Bihar through the District Magistrate, Buxar.
 2. The District Magistrate, Buxar.
 3. The Circle Officer, Buxar
 4. Munna Rai, S/o Yamuna Rai
 5. Atul Rai. S/o Jitan Rai
 6. Alok Rai. S/o Jhuna Rai
- All Resident of Village- Sarimpur, P.S. Buxar (Industrial) District Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Kumar Singh, Advocate
For the Respondent/s : Mr. Rishi Raj Sinha, SC-19

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 20-08-2018

Heard Mr. Ram Kumar Singh, learned counsel for the petitioner and Mr. Birendra Prasad Singh, learned AC to SC-19, for the respondent-State.

In view of the nature of order, this Court intends to pass, this Court is neither inclined to adjourn the matter any further nor inclined to issue notice to private Respondent Nos. 4 to 6.

The present writ application has been filed for a direction to the respondent authorities to get the encroachment removed from the public land/road, appertaining to Khata No. 23, Plot No. 23, Thana No. 334, situated at Mauza Niranjanpur, District Buxar.



It is submitted by learned counsel for the petitioner that the petitioner purchased the land in question from one Amarnath Upadhyay in the name of Shail Kumar and Anita Devi, being relatives and the wife of the petitioner, respectively, through sale deed dated 25.05.2010. On the northern side of the land in question there is public road/bandh which is being used as public road, but the same has been encroachment upon by private Respondent Nos. 4 to 6.

In pursuance to the complaint made before the Public Grievance Redressal Authority, the Sub-Divisional Public Grievance Redressal Authority, Buxar vide order dated 26.09.2017, passed in Case No. 530210123081701530 of 2017, as contained in Annexure-1, directed Respondent No.3, the Circle Officer, Buxar, to get the encroachment removed from the public land in question, under the provisions of Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act'). Subsequently, Respondent No.3, the Circle Officer, Buxar directed the Circle Amin to conduct measurement of the land in question and submit a report to that effect, whereupon Circle Amin after measuring the land in question, submitted a report to the Circle Officer, on 10.10.2017, as contained in Annexure-2, which suggests that the land/road in question has been encroached upon



by private Respondent No. 4 to 6. The petitioner also submitted a representation on 15.03.2018 before Respondent No.2, the District Magistrate, Buxar, as contained in Annexure-2, but in spite of that, neither any proceeding has been initiated nor the encroachment has been removed from the land in question, till date. Hence, the present writ application.

Learned AC to SC-19 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 Act will be initiated and the said proceeding will be taken to its logical conclusion within a time frame.

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.

In the present case, it appears that the Respondent No.3, the Circle Officer, Buxar, appeared before the Sub-Divisional Public Grievance Redressal Authority, Buxar where direction was given to him for getting the area in question measured and to get



the encroachment removed from the land in question under the Act, but there is nothing on record to suggest that whether any proceeding has been initiated or the encroachment has been removed from the land in question.

In the circumstances the Respondent No.3, the Circle Officer, Buxar, is expected to examine the Revenue Records, and if need be, conduct spot verification, whereupon, if it appears to him that the land in question is a public land/road 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 three months from its initiation, after giving due notice to all affected persons, including the petitioner and private Respondent No. 4 to 6, in accordance with the provisions of the Act.

Accordingly, with the above observations and directions the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/Deepak/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

