

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12487 of 2018

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Brahama Nand Thakur, Son of Late Sundar Lal Thakur, Resident of Village Kanahauli (Jhanjharpur) Ward No. 6, Police Station Jhanjharpur, District Madhubani.

... .. Petitioner/s

Versus

1. The State Of Bihar, through the Principal Secretary, Rural Development Department, Government of Bihar, Patna.
2. The District Magistrate, Madhubani.
3. The Anchal Adhikari, Jhanjharpur, District Madhubani.
4. The Superintendent of Police, Madhubani.
5. The Officer-in-Charge, Jhanjharpur, Police Station, Jhanjharpur, District Madhubani.
6. Ashok Sahu, Son of Suraj Sahu, Resident of Jhanjharpiur, Ward No.1, Police Station-Jhanjharpur, District-Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhas Ranjan
For the Respondent/s : Mr. Vinay Kriti Singh - GA 2

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 10-07-2018

Heard Mr. Prabhas Ranjan, learned counsel for the petitioner and Mr. Vijay Kumar, learned AC to GA 2 for the respondent-State.

In view of the nature of order this Court intends to pass, this Court is neither to adjourn the matter any further, nor inclined to issue notice to private Respondent No.6.

The present writ application has been filed for a direction to the respondent authorities for getting the encroachment removed from the public land/road, appertaining to



Khata No. 490, Plot No. 1040, situated at Mauza Kanahauli (Jhanjharpur), District Madhubani.

It is submitted by learned counsel for the petitioner that for getting the encroachment removed from the land in question, a public petition was submitted before Respondent No.3, the Circle Officer, Jhanjharpur, whereupon, Respondent No.3, the Circle Officer, Jhanjharpur, vide order dated 25.06.2015, as contained in Annexure-1, directed the Circle Amin for measurement of the land in question, and consequently, the Circle Amin submitted the report to the effect that private Respondent No.6, has encroached upon the public land in question. Consequently, notices were issued to private Respondent No.6, vide order dated 21.01.2016 and 08.02.2016, under the signature of Respondent No.3, the Circle Officer, Jhanjharpur, as contained in Annexure-2. Respondent No.3, the Circle Officer, Jhanjharpur, vide notice dated 08.02.2016, as contained in Annexure-3, directed private Respondent No.6 to remove the encroachment from the land in question within a period of ten days. Again the Circle Officer, vide notice dated 22.07.2016, as contained in Annexure-4, granted ten days' time to remove the encroachment from the land in question. Ultimately, Respondent No.3, the Circle Officer, Jhanjharpur, vide Memo No. 912, dated 17.11.2016, as contained in Annexure-6,



requested the Station House Officer, Jhanjharpur to get the encroachment removed from the land in question by deployment of force since private Respondent No.6 is not responding to the notice issued to him for removal of the encroachment from the land in question. Though, encroachment proceeding being Encroachment Case No. 19 of 2015-16 has been initiated, but it does not appear that the said proceeding was conducted, however, Respondent No.2, the District Magistrate, Madhubani, vide order dated 20.10.2017, as contained in Annexure-8, directed the Public Grievance Redressal Officer, Jhanjharpur for removal of the encroachment from the land in question, but the same has not been removed till date.

Learned AC to GA 2 submits that at present, he is not having any instruction, whether the proceeding of Encroachment Case No. 19 of 2015-16 has been concluded or not, but if the same has not been concluded till date, the same will be taken to its logical conclusion within a time frame.

Having heard learned counsels for the parties, from the records, it does not appear that Respondent No.3, the Circle Officer, Jhanjharpur has conducted the proceeding of Encroachment Case No. 19 of 2015-16 in the manner prescribed under the Bihar Public Land Encroachment Act, 1956 (hereinafter



referred to as ‘the Act’). From none of the notices, it appear that the same have been issued either under Section 3 in Form-I or under Section 6(2) in Form-II of the Act and there is nothing on record to suggest that the final order under Section 6(1) of the Act has been passed.

In the circumstances, it is expected from Respondent No.3, the Circle Officer, Jhanjharpur to take the proceeding of Encroachment Case No. 19 of 2015-16 to its logical conclusion within a period of four months from the date of receipt/production of a copy of this order, if the same has already not been concluded, after giving due opportunity of hearing and putting defence to all affected persons, including the petitioner and private Respondent No.5, 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	

