

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5397 of 2018

=====

Bablu Harijan, S/o- Raghu Harijan, Resident of Village- Katchatar, Post-
Lilatari, P.S. Rajoun, District- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate-cum-Collector, Banka District- Banka.
3. The Sub-Divisional Officer, Banka, Sadar.
4. The Circle Officer, Rajoun Anchal (Block), Banka.
5. Pramod Harijan, S/o late Kailu Harijan
6. Dayananad Harijan, S/o late Budhadev Harijan
7. Lalu Harijan, S/o Chandar Harijan, All are Resident of Village- Kathchatar,
Post- Lilatari, P.S. Rajoun, District- Banka.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Radha Raman Verma
For the Respondent/s : Mr. Md. Khurshid Alam- AAG 12

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 02-08-2018

Heard Mr. Radha Raman Verma, learned counsel for the
petitioner and Mr. Majid Mehboob Khan, learned AC to AAG 15
for the respondent-State.

Though, the present writ application was registered on
23.03.2018, but till date no counter affidavit has been filed, hence,
in view of nature of order this Court intends to pass, this Court is
neither inclined to adjourn the matter any further nor to issue
notice to private Respondent Nos. 5 to 7.

The present writ application has been filed for a
direction to the Respondent No.4, the Circle Officer, Rajoun to
conclude the proceeding of Encroachment Case No. 5 of 2017-18



expeditiously, which has been initiated for removal of the encroachment from the public land, appertaining to Khata No. 308, Plot No. 418, situated at Mauza Kathchatar, District Banka.

It is submitted by learned counsel for the petitioner that residential house of the petitioner is situated over the land, appertaining to Khata No. 149, Plot No. 123, Thana No. 549, and adjacent to the land of the petitioner, the land appertaining to Khata No. 308, Plot No. 418, is situated, which is a public land and the same is being used by public at large as well by the petitioner as a public road, but due to encroachment made over the said land in question by private Respondent Nos. 5 to 7, ingress and egress of the petitioner from his residential house has completely been blocked.

For removal of the encroachment from the public land in question, the petitioner submitted an application before Respondent No.4, the Circle Officer, Rajoun, but no action was taken with regard to the removal of the encroachment from the land in question. Consequently, the petitioner made a complaint before the Sub-Divisional Public Grievance Redressal Officer, on 22.05.2017, which got numbered as Complaint Case No. 523110122051701506. Subsequently, in the said proceeding, a report was submitted by Respondent No.4, the Circle Office,



Rajoun, to the effect that the public land in question has been encroached upon by private Respondent Nos. 5 to 7 and for removal of the same, encroachment proceeding has already been initiated, being Encroachment Case No. 5 of 2017-18, but due to non-availability of the Circle Amin, the measurement of the land in question could not be conducted, when Sub-divisional Public Grievance Redressal Officer directed the Respondent No.4, the Circle Officer to conclude the said encroachment proceeding within a time frame. On non-conclusion of the said encroachment proceeding, the petitioner preferred an appeal before the Additional Collector, Banka-cum-First Appellate Authority, wherein, Respondent No.4, wherein the Circle Officer, Rajoun, also submitted a report stipulating therein that the Circle Amin and Halka Karamchari in their report have also suggested that the public land in question has been encroached upon by Private Respondent Nos. 5 to 7. The Appellate Authority, vide order dated 02.11.2017, as contained in Annexure-4, also directed the Respondent No.4, the Circle Officer, Rajoun to conclude the proceeding of Encroachment Case No. 5 of 2017-18, but till date, the said encroachment proceeding has not been taken to its logical conclusion. Hence, the present writ application.



Mr. Majid Mehboob Khan, learned AC to AAG 12 submits that at present, he is not having any instruction, whether the proceeding of Encroachment Case No. 5 of 2017-18 has been taken to its logical conclusion or not, but if the said proceeding has not been taken to its logical conclusion, then it will be taken to its logical conclusion within a reasonable time frame.

Having heard learned counsels for the parties, this Court is of the view that though, under the provisions of Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') no time frame has been stipulated for concluding the proceeding under the Act, but it does not mean that summary proceeding under the Act can be prolonged and kept pending for months and years together.

Further, this Court is dismayed to find that inspite of direction of the Sub-Divisional Public Grievance Redressal Authority, the proceeding of Encroachment Case No. 05 of 2017-18 has not been concluded, which shows complete lack of administrative control of the District Magistrate, Banka, over his subordinate officers.

In the circumstances, Respondent No.2, the District Magistrate, Banka is expected to take needful action against the concerned Circle Officer for not concluding the encroachment



proceeding in spite of specific direction of Sub-Divisional Public Grievance Redressal Officer in that regard.

It is expected from Respondent No.4, the Circle Officer, Rajoun, to take the proceeding of Encroachment Case No. 05 of 2017-18 to its logical conclusion within a period of six weeks from the date of receipt/production of a copy of this order, after giving due opportunity of hearing to all affected persons including the petitioner and private Respondent Nos. 5 to 7 in accordance with the provisions of the Act.

Accordingly, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/Deepak/-

AFR/NAFR	NAFR
CAV DATE	N.A
Uploading Date	13.08.2018
Transmission Date	N.A

