

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8391 of 2018

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Molan Sahni, Son of late Baldeo Sahni, Resident of Village- Gudarghat, P.S.-
Khanpur, Distt.- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar , through the Principal Secretary Water Research Dept.
2. The District Magistrate, Samastipur.
3. The Executive Engineer, Flood Control Division, Water Ways Department,
Rosera, Samastipur.
4. The Sub Divisional Officer, Samastipur.
5. The Circle Officer, Khanpur, Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ghanshyam Choudhary
For the Respondent/s	:	Mr. Harish Kumar, GP-8

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 16-05-2018

Heard Mr. Ghanshyam Choudhary, learned counsel for
the petitioner and Mr. Sudhir Kumar Upadhyay, learned AC to GP-
8 for the Respondent-State.

Though, the present writ application was registered on
30.04.2018, but in view of the 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 to get the encroachment
removed from the land, appertaining to Tauzi No. 6424, Thana No.
190, Plot No. 1786 and 1787, situated in Village Gudarghat, P.S.
Khanpur, District Samastipur.



It is submitted by learned counsel for the petitioner that the land in question is an embankment of a water channel and the same is being used by public at large as a road, but it has been encroached upon by certain people. For removal of encroachment from the land in question, the petitioner submitted applications on 23.02.2018 through registered post before Respondent no.2, the District Magistrate, Samastipur, Respondent no.5, the Circle Officer, Khanpur, Respondent no.4, the Sub-Divisional Officer, Samastipur and Respondent no.3, the Executive Engineer, Water Wage Department, Rosera Samastipur, as contained in Annexure-1(series), but till date no action has been taken for removal of encroachment from the land in question. Hence, the present writ application.

Learned AC to GP-8 submits that at present, he is not having any instruction, but if the encroachment is being made on a public land then a proper proceeding under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') will be initiated forthwith by the authorities and the such 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 initiation of a proceeding under Section 3 of the Act, the only precondition 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 made or is responsible for the continuance of encroachment over the public land.

In the present case, it appears that representations were submitted by the petitioner through registered post on 23.02.2018 before respondent authorities, particularly Respondent No.5, the Circle Officer, Khanpur, but there is nothing on record to suggest that any proceeding under the Act has been initiated or the encroachment has been removed from the land in question.

In the circumstances, it is expected from Respondent no.5, the Circle Officer, Khanpur to examine the Revenue Record and if need be, conduct spot verification and get the measure of the land in question done, whereupon, if it appears to him that the land in question is a public land and the same has been encroached upon, then he will initiate a proceeding under the Act forthwith, if it has already not been initiated, and 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, in accordance with the provision 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	21.05.2018
Transmission Date	

