

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13170 of 2018

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Ram Niyade Ram, Son of Late Dukhi Ram, Resident of Village Pipariya,
P.S. Chand, District- Kaimur (Bhabua).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Revenue and Land Reforms, Government of Bihar, Patna.
2. The Collector-cum-District Magistrate, Kaimur at Bhabua.
3. The Sub-Divisional Officer, Kaimur at Bhabua.
4. The Circle Officer, Chand, District- Kaimur at Bhabua.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Agrawal, Adv
For the Respondent/s : Mr. Sajid Salim Khan, SC-25

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date : 13-07-2018

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 land appertaining to Thana No.190, Khata No.73, Plot No.370, situated in Mauza-Pipariya, Circle-Chand, District- Kaimur at Bhabua which has been recorded in the Khatiyani as 'Anabad Sarva Sadharan'.

It is submitted by learned counsel for the petitioner that the land in question is recorded in the Khatiyani as 'Anabad Sarva Sadharan', as contained in Annexure-1 and on the northern part of the said land, there is a pond and on the



southern part of the land in question, the raiyati land of the petitioner is situated. The land in question also connects the village to the main road and the people use the land as public road, but the same has been encroached upon by the various persons, including Tengri Ram and Jhuri Ram. The petitioner submitted an application before the Respondent No.4, the Circle Officer, Chand, on 06.03.2017 and thereafter before the Respondent No.2, the Collector-cum-District Magistrate, Kaimur at Bhabua, as contained in Annexures- 2 and 3 respectively with prayer for getting the encroachment removed from the land in question. Earlier, the petitioner also submitted an application in the Janta Darbar of the Collector, Kaimur on 04.02.2016, as contained in Annexure-4. But till date, neither any encroachment proceeding has been initiated, nor the encroachment has been removed from the land in question. Hence, the present writ application.

Learned counsel for the State submits 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 as yet and the same will be taken to its logical conclusion within a time frame.

The pre-condition for initiating a proceeding for removal of encroachment is prescribed under Section 3 of the Act which 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.

No doubt, the petition was submitted before the Circle Officer as far as back on 04.12.2017, as gets reflected from Annexure-2 and thereafter on 06.03.2017 before Respondent No.2, the District Magistrate, Kaimur at Bhabua, but there is nothing on record to suggest that any proceeding has been initiated till date or any effort has been taken to come to the finding whether the land in question is a public land.

In the circumstances, the Respondent No.4, the Circle Officer, Chand 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



been initiated as yet and take such proceeding to its logical conclusion within a period of three months, after giving due opportunity of hearing to all affected persons, including the petitioner and two other persons, who have been named by the petitioner as Tengri Ram and Jhuri Ram as encroachers in accordance with the provisions of the Act.

The Writ application is, accordingly, disposed of with the observation aforesaid.

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

