

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14218 of 2018

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Chandra Bhushan Ojha, S/o Late Harishankar Ojha, Resident of village - Mangalpur Gudariya, P.S. - Nautan, Dist - West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, West Champaran at Bettiah.
 2. The Collector, West Champaran at Bettiah.
 3. The Sub Divisional Officer, Bettiah Sadar, Bettiah, Dist. - West Champaran.
 4. The Circle Officer (Anchal Adhikari), Nautan Block, Nautan, Dist. - West Champaran.
 5. The Officer In-Charge, Nautan Police Station, Nautan, Dist. - West Champaran.
 6. Ijhar Mian, S/o Late Sabkat Ali
 7. Kuran Mian, S/o Late Samsuddin Mian
 8. Chandrika Mukhiya, S/o Late Makhan Mukhiya
 9. Laxmi Mukhiya, S/o Late Sita Mukhiya
 10. Deoraj Mukhiya, S/o Late Nathuni Mukhiya
 11. Nandu Mukhiya, S/o Late Gorakh Mukhiya
- All residents of village - Mangalpur Kala, Tola - Bintoli, P.S. Nautan, Dist. - West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Adv.
For the Respondent/s : Ms. Archana Prasad, AC to SC-19

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date : 27-07-2018

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 flank of the public road, appertaining to Khata No.253, Plot No.538, situated at Circle Nautan, P.S.- , District – West Champaran, which connects Panchayat



Mangalpur Kala to the village- Mangalpur.

Since the Writ application was registered on 21.07.2018, but no counter affidavit has been filed till date and in view of the nature of order this Court intends to pass, this Court is neither inclined to adjourn the matter nor inclined to issue notice to Private Respondent Nos. 6 to 11.

It is submitted by learned counsel for the petitioner that the road in question has been encroached upon by Private Respondent Nos. 6 to 11. For removal of encroachment from the land in question, the petitioner transmitted representation on 23.01.2018, before the Respondent No.4, the Circle Officer, Nautan, and the Respondent No.2, the District Magistrate, West Champaran at Bettiah, as contained in Annexures 1 and 2 respectively. But till date, neither any encroachment proceeding has been initiated, nor the encroachment has been removed from the land in question.

It is submitted by learned counsel for the respondent-State that, at present, she 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 and the same will be taken to its logical conclusion within a time frame.

For initiating a proceeding for removal of encroachment, Section 3 of the Act mandates 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 representations were transmitted before the Circle Officer and the District Magistrate on 23.01.2018, as gets reflected from Annexures 1 and 2 respectively, 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, Nautan, is directed 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 already been initiated and take such proceeding to its logical



conclusion within a period of three months, by giving due opportunity of hearing to all affected persons including, Respondent Nos.6 to 11 and the petitioner, 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	

