

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16512 of 2018

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Anita Devi W/o Devendra Kumar resident of Village : Laraua, P.S. -
Makhdumpur, District - Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Govt. of Bihar, Patna.
2. The Commissioner, Magadh Division, Gaya.
3. The District Magistrate, Jehanabad.
4. The Superintendent of Police, Jehanabad.
5. The Sub Divisional Officer, Jehanabad.
6. The Circle Officer, Makhdumpur.
7. The Executive Officer, Nagar Panchayat Makhdumpur.
8. Birendra Prasad Singh S/o Late Chandradeo Prasad
9. Arjun Prasad S/o Late Chandradeo Prasad
10. Sanjay Prasad s/o Late Chandradeo Prasad
11. Ranju Devi W/o Sanjay Prasad

8 to 11 residents of village Ladaua, P.S. Makhdumpur, District - Jehanabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vinod Kumar, Advocate
For the Respondent/s : Mr. Mukul Prasad, AC to GP-18

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

2 01-11-2018

Heard Mr. Vinod Kumar, learned counsel for the petitioner
and Mr. Mukul Prasad, Assistant Counsel to GP-18 for the State.

The petitioner seeks a writ in the nature of mandamus
commanding the authorities to stop the alleged construction work
on a piece of land bearing Khata No. 148, Khesra No. 284 in
village Laraua in the district of Jehanabad, which according to the



petitioner is in the nature of Gair Majarua Aam Land and on which the private respondents are allegedly making construction.

Our repeated query as to whether the petitioner has moved the forum prescribed under the Bihar Public Land Encroachment Act, 1956 for the purpose has gone unanswered. Mr. Vinod Kumar instead refers the same kind of representation filed before the authorities which in our opinion is not the procedure prescribed under the Act. If the petitioner is sanguine about his grievance that there is encroachment being done on a public land then he has to take recourse to the remedy as provided under the Act in the manner prescribed. For the purpose he has to file a proper statutory application under Section 3 arraigning the alleged encroachers as well explaining the extent of encroachment carried out by them as well as the nature of encroachment.

The petitioner having failed to do so, the writ petition cannot be answered for the default. In the circumstances, while giving liberty to the petitioner to take recourse to the remedy provided under the Act in the manner prescribed, we dispose of this writ petition.

It goes without saying that if any such application is filed by the petitioner under the Act, the authorities would proceed to dispose of the same in accordance with law after giving



opportunity of hearing to the contesting parties preferably within
six months of its filing.

(Jyoti Saran, J)

(Nilu Agrawal, J)

Rajesh/-

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