

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12802 of 2018

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Upendra Narain Choudhary, Son of Late Ram Vilash Choudhary, Resident of
Village + P.O. Bandhar (Sivajinagar), P.S. Hathauri, Distt. Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Revenue Department, Bihar, Patna.
2. The District Magistrate, Samastipur.
3. The Sub Divisional Officer, Rosera, Samastipur.
4. The Circle Officer, Sivajinagar, Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ghanshyam Choudhary, Adv.
For the Respondent/s	:	Mr. Birendra Prasad Singh, AC to SC-19

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date : 12-07-2018

Heard learned Counsels for the petitioner and the respondent-State.

Learned counsel for the petitioner is permitted to make necessary with regard to seriatim of the respondents.

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.26, Plot No.372 (old), and 506 (new), situated in Village-Circle -Shivajinagar, Mauza – Bandhar, District -Samastipur.

It is submitted by learned counsel for the petitioner that the land in question is a public land, but the same has been encroached upon. A representation was submitted before the



Respondent No.4, the Circle Officer, Sivajinagar for getting the encroachment removed, upon which, the Circle Officer, vide, Letter No.635, dated 30.10.2012, as contained in Annexure-1, directed the Anchal Amin to measure the land in question and to submit a report. But neither the land in question has been measured nor the encroachment has been removed from the land in question. The petitioner also submitted a representation dated 25.10.2017, before the Public Grievance Redressal Authority, as contained in Annexure-2. Thereafter, the petitioner submitted an application on 08.03.2018, before the Respondent No.2, the District Magistrate, Samastipur, as contained in Annexure-3. But till date neither any encroachment proceeding has been initiated nor the encroachment has been removed from the land in question.

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.

This is not in dispute that Respondent No.4, the Circle Officer was aware about the encroachment being made on the said public road/land, which gets reflected from the Letter No.635, dated 30.10.2012, as contained in Annexure-1, 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, Circle Officer, Shivajinagar, is expected to examine the revenue records and if need be, 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 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	

