

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15484 of 2016

Sk. Noor Bashar son of Late Sk. Abdul Aziz Resident of Village-Baswariya,
Police Station-Chautarwa, District-West Champaran

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Superintendent of Police , Bagaha, District West Champaran
3. The Sub- Divisional Magistrate, Bagaha, District West Champaran
4. The Anchal Adhikari, Bagaha-1 Anchal, District-West Champaran
5. The Circle Inspector, Bagaha-1 Circle, District-West Champaran
6. The Officer Incharge, Chautarwa Police Station, District-West Champaran
7. Lalan Yadav son of Late Bhoj Yadav
8. Sukhdeo Yadav son of Late Bhoj Yadav
9. Nawal Yadav son of Late Bhagat Yadav
10. Bishun Yadav son of late Jhapasi Yadav All are Resident of Village-Baswariya, Police Station-Chautarwa, District-West Champaran

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Buxi S.R.P.Sinha, Sr.Advocate Mr. Zaimul Abedin, Advocate
For the Respondent/s	:	Mr.Raj Kishore Roy-Gp18

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 17-04-2019 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

The present writ petition has been filed for a direction
to the respondents to remove encroachment over the Gair
Majarua Aam land bearing Khata No. 3, Khesra No. 106, Area 5
acre and 3 decimals at village Baswariya, P.S. Chautarwa,
District- West Champaran encroached by the respondent Nos. 7
to 10.



Mr. Buxi S.R.P. Sinha, learned senior counsel appearing for the petitioner, referring to Annexure-4 to the writ petition, submits that the respondent-Circle Officer, Bagha, West Champaran way back on 2.7.2016 issued notice to the respondent Nos. 7 to 10 but unfortunately encroachment has not been removed and to the contrary further encroachment has surfaced.

The Bihar Public Land Encroachment Act was enacted with a view that the authorities under the Act may take appropriate decision with regard to encroachment of public land and if there is any encroachment, to take appropriate decision for removal of the same. Even if the authorities arrive at a finding that there is any encroachment existing on the public land, it is their solemn duty to take step for removal of the encroachment after giving opportunity to the persons concerned. The Act provides for an earlier decision and it appears that more than 2 ½ years have passed but till date the matter as to determination of encroachment over public land and the matter as to the identification of encroacher has not been completed and as a result of reluctance on the part of the authorities entrusted with the responsibility under the Act to remove encroachment, the same is still existing.



Under the aforesaid circumstances, the writ petition is disposed of with a direction to the Circle Officer, Bagha to take the proceeding for encroachment to its logical end by hearing the encroachers within a maximum period of sixty days from the date of receipt/production of a copy of this order.

If the Circle Officer arrives at a finding that there is encroachment over the public land and encroachers are identified, he is under obligation to remove the encroachment within the time frame indicated hereinabove.

With the aforesaid, the writ petition is disposed of.

(Anil Kumar Upadhyay, J)

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