

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23319 of 2019

Shivendra Kumar @ Shivendra Kumar Singh Son of Krishna Nandan Singh
Resident of Village-Kanchanpur, P.S.-Bihta, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Bihar at Patna.
2. The District Magistrate-Cum-Collector, District Patna.
3. The Additional District Magistrate, Danapur Division, District-Patna.
4. The Circle Officer, Bihta, District-Patna.
5. The Officer In-Charge, Kanchanpur, P.S.-Bihta, District-Patna.
6. Hulas Singh Son of Late Badri Singh Resident of Village-Kharagpur, P.S.-Bihta, District-Patna.
7. Mahendra Narayan Singh Son of Late Sidh Nath Singh Resident of Village-Kharagpur, P.S.-Bihta, District-Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s : Mr.Subash Chandra Yadav (GP-15)

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 26-11-2019 Heard learned counsel for the parties.

2. The petitioner has filed this writ application for initiation of encroachment proceeding against the respondents no. 6 and 7 who are said to have encroached upon the public land, which is a common road having width of 16 ft., appertaining to Plots No. 1660, 1676, 1606, 1679, 1678, 1685, 1684 in village Kharagpur in the district of Patna. Petitioner has alleged that though he has approached the Circle Officer and the Collector in this regard, no action has so far been taken.



3. Section 3 of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') deals with initiation of proceeding for removal of encroachment from a public land and stipulates that if it appears to the Collector from an application made by any person or upon information received from any source that any person has made or is responsible for continuance of any encroachment upon a public land, the Collector may cause to be served upon such person a notice in prescribed form requiring him to appear on a date which shall not be less than two weeks from the date of service of notice to show cause as to why he should not be restrained from making any encroachment or as to why such encroachment should not be removed.

4. The expression 'Collector' has been defined in Section 2 of the Act as Collector of the district including any officer empowered by the State Government to discharge all or any of the functions of the Collector under this Act.

5. There appears to be no dispute about the fact that Circle Officers of respective blocks have been given powers of a Collector under the Act. The petitioner has made an application before the Circle Officer, as has been noted above.

6. Requirement of initiation of a proceeding under



Section 3 of the Act will arise if it appears to the Collector that any person has made or is responsible for continuance of any encroachment upon any public land. On bare reading of Section 3 of the Act it can be easily noticed that before initiation of a proceeding under the said provision of the Act, the Collector has to be satisfied that the land in respect of which grievance is being made of encroachment is a public land within the meaning of Section 2(3) of the Act and that certain encroachments have been made. If these two things are apparent to the Collector under the Act, in my opinion, he has statutory duty to proceed under the Act.

7. This application is disposed of with the aforesaid observation and direction that let the authorities take a decision on the petitioner's application, which he has filed for removal of encroachment.

(Chakradhari Sharan Singh, J)

Rajesh/-

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