

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16066 of 2015

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Dharm Nath Rai Son of late Deoki Rai Resident of Village- Mahua, P.s
Hajipur (Sadar) District Vaishali at Hajipur.,

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Collector, Vaishali at Hajipur
3. The Superintendent of Police, Vaishali at Hajipur.
4. The Sub-Divisional Officer, Vaishali at Hajipur.
5. The Circle Officer, Vaishali at Hajipur.
6. The Anchal Amin, Vaishali at Hajipur.
7. Sri Sheo Narain Rai, son of Sri Chaitu Rai, resident of Village- Manua, P.S.
Hajipur (Sadar), District Vaishali at Hajipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Navjot Yesu, Adv.
For the Respondent/s	:	Mr.P.K.Singh, SC-12
		Mr.Rishi Raj Sinha, SC-19
		Mr.Alok Kumar Alok, Adv.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

13 05-11-2020

This writ application has been filed seeking a direction to the State Respondents to remove the encroachment made by Respondent No. 7 over a public road appertaining to Thana No. 24, Khata No. 325, Khesra No. 284 situate in village Manua in the district of Vaishali.

It is the case of the petitioner that Respondent No. 7 has been found by the Collector, Vaishali to have illegally encroached the public land in the nature of a road and despite there being direction by him issued way back on 18.05.2009, the



encroachment has not been removed.

I have heard learned counsel appearing for the petitioner, learned counsel representing Respondent No. 7 and learned counsel for the State of Bihar.

Respondent No. 7 has disputed the claim that the land in question is in the nature of public road, rather the land is recorded as *Gair Mazarua* which was settled by the ex-landlord in the name of grandfather of Respondent No. 7, whereafter settlees have been paying land revenue regularly.

Be that as it may, there is no dispute about the fact that Respondent No. 2 had directed for removal of encroachment in a duly constituted proceeding under Bihar Public Land Encroachment Act registered as Misc. Case No. 98/2007-08 and after conclusion of the proceeding an order was issued on 18.05.2009 with a direction to the Circle Officer, Hajipur to get the land in question measured and to take steps for removal of encroachment from the land of the aforesaid description.

In the counter affidavit filed on behalf of the Collector, Vaishali it has been stated that in the light of order dated 18.05.2009, the *Anchal Amin* had measured the land and submitted a report. After getting the report of the Revenue Clerk



and *Anchal Amin*, Encroachment Case No. 02/2010-11 was instituted against Respondent No. 7. It has further been stated in the counter affidavit that the encroachment has been removed and a concrete road has been brought into existence over the land in question. It has further been asserted in the counter affidavit that the Collector, Vaishali was informed about the removal of encroachment vide letter dated 25.05.2019.

The factum of removal of encroachment was seriously disputed on behalf of the petitioner by filing a reply to the counter affidavit. Mr. Navjot Yesu appearing on behalf of the petitioner has vehemently argued that the stand on behalf of the respondents that the encroachment in question has been removed is completely false.

In view of the specific stand taken on behalf of the petitioner, the Court had directed the respondents to file a supplementary counter affidavit. A supplementary counter affidavit has been filed accordingly. In the supplementary counter affidavit, it has been stated that it was subsequently found that the encroachment, which was earlier removed, had resurfaced in the form of piling of bricks/ *kachha* wall and asbestos sheet on the part of the government land by Respondent No. 7. It has further been stated that after having



noticed the said fact, the Circle Officer, Hajipur with the aid of the police force has removed the entire encroachment and the operation of removal of encroachment has been photographed and videography has also been done. It has further been stated that the police officials present with the Circle Officer, Hajipur exercising magisterial power from the government land have recovered from the debris one country-made pistol with live cartridges along with household goods and accordingly FIR has been registered giving rise to Hajipur (Sadar) P.S. Case No. 612 of 2020 and 611 of 2020.

Mr. Navjot Yeshu has argued that the debris are still lying over the public land, which is admittedly in the nature of road for public use.

I need not go further into the dispute which has arisen in the present matter as noticed above, since the encroachment has finally been removed. This application is disposed of, in the facts and circumstances noted above, with a direction to the respondents to ensure that the debris over the public land are removed without further loss of time, if not already removed.

Rajesh/-

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(Chakradhari Sharan Singh, J)

