

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5610 of 2023

Kamlesh Kumar Singh, Son of Umashankar Singh, Resident of Village-
Tateriya Laheri, P.S.- Kochas, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Rohtas at Sasaram.
2. The District Magistrate, Rohtas at Sasaram.
3. The Sub Divisional Magistrate, Sasaram.
4. The Circle Officer, Kochas, Rohtas.
5. The Additional Principal Secretary, Road Construction Department,
Government of Bihar, Patna.
6. The Executive Engineer, Road Construction Department, Kochas District-
Rohtas.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Saroj Kumar, Advocate
For the Respondent/s : Mr. Sajid Salim Khan (SC-25)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE MADHURESH PRASAD)

Date : 21-04-2023

The writ application has been filed as a Public Interest Litigation (PIL) seeking direction upon respondent Nos. 2, 5 and 6 to remove the gate and demolish the newly constructed boundary wall alleged to have been erected on a plot, resulting in obstruction of 8 feet wide passage/road, which was being used by the public of the locality since the year 2008. The road is said to be connecting a small locality on plot No. 1506 on the eastern flank of Buxar-Sasaram State Highway, with the Highway.

The averment, in the writ petition, clearly indicates that



parts of the plot in question as also various plots lying on the eastern flank of the Highway, have been acquired and that on various plots, locals have also erected their own private constructions.

The petitioner has placed reliance on a report dated 01.03.2008 submitted by the Circle Inspector to the Circle Officer and alleged acceptance of the said report in communication of the Circle Officer (Respondent No. 4) to the Sub Divisional Magistrate (Respondent No. 3). These communications are alleged to be of the year 2008.

Based on alleged communications of the year 2008, this writ petition, by way of Public Interest Litigation, has been filed in the year 2023. Apart from the fact that there is shocking delay in approaching this Court, this Court would also observe that the alleged report of the Circle Inspector and communication of the Circle Officer, even if for the sake of arguments, are accepted by this Court to be correct, the same would have no significance today, 15 years later, with reference to the current situation in the locality.

The petitioner has remedy under the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as “the Act”), which provides remedy for removal of encroachment from public lands. Section 4 of the Act allows an opportunity to the



noticee (petitioner) to raise any defense which they could have raised if they were defendants in a properly framed suit for removal of encroachment. The Act also provides an opportunity of hearing under Section 5; as well as the consequences of nonappearance in the proceedings.

It is only after observing the above procedure that final order is to be passed by the Collector under Section 6 of the Act, either dropping the proceedings or passing orders for ensuring removal of encroachment, damages or otherwise. The order of the Collector for removing encroachment is also subject to appeal under Section 11 of the Act. Section 13 of the Act also provides an opportunity of review in case of any mistake or error in the course of any proceedings.

The petitioner has also remedy under Section 133 Cr.P.C and other civil remedies, which he may avail in accordance with law.

The writ petition is dismissed.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

SUMIT/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.04.2023
Transmission Date	NA

