

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14391 of 2002

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Shree Narayan Singh, son of late Raghubar Narayan Singh, Managing Trustee of Rai Bahadur Dalip Narayan Singh Trust Estate, resident of Ulyan Dalip Mahal, Mohalla Purabsarai, P.S. Kotwali, District Munger

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Munger
3. Additional Collector, Munger
4. Khas Mahal Officer, Munger
5. Heera Mani Devi, wife of Surya Narayan Prasad, at Basudeo Lal and Sons, Chauk Bazar, P.S. Kotwali, District Munger.
6. Yogendra Prasad Yadav, Advocate, son of Haro Prasad Yadav
7. Awadhesh Kumar, minor son under the guardianship of his father Yogendra Prasad Yadav, both residents of Village Barajpur, P.S. Sangrampur, District Munger at present residing at “Lalji Bhawan” Fort Area, Munger Town, District Munger
8. Smt. Shashi Kala Devi, wife of Ram Babu Sah
9. Siwati Devi, wife of Jai Prakash Sah
10. Om Prakash Sah
11. Anil Kumar, both sons of Gandhi Sah
12. Asha Devi, wife of Arun Kumar Sah
13. Manju Devi, wife of Naresh Kumar Sah
14. Smt. Saroj Agrawal, wife of Sanosh Kumar Agrawal, All residents of Dalhata Bazar, P.S. Kotwali, Town and District Munger.
15. Mukesh Kumar Yadav
16. Sachidanand Prasad Yadav
17. Manoj Kumar Yadav
18. Saroj Kumar Yadav, all sons of Deo Narayan Yadav
19. Smt. Radhi Devi, wife of Deo Narayan Yadav
20. Deo Narayan Yadav alias Peshkar, son of late Budhu Yadav
21. Varundeo, son of late Gudar Yadav, all residents of Village Herua Diara, P.S. Kashim Bazar, District Munger.
22. Nityanand Yadav, son of Kare Lal Yadav
23. Smt. Asha Devi, wife of Ajay Kumar Rai, daughter of Kare Lal Yadav, both residents of Village Shankarpur, P.S. Shankarpur, P.S. Muffasil, District Munger at present at Sweet Palace near Ashok Sthamb Awadh Bazar, P.S. Kotwali, District Munger.
24. Bindeshwari Yadav, son of late Nageshwar Yadav, resident of Herna Diara, P.S. Kashim Bazar, District Munger.
25. Prashant Kumar, minor under the guardianship of his father Rabi Shankar Singh, resident of Village Halimpur, P.S. Jamalpur Nagar, District Munger
26. Rabi Shankar Singh, Advocate son of Bhuneshwar Prasad resident of Halimpur, P.S. Jamalpur Nagar, District Munger.
27. Dhrub Kumar, son of Raj Kumar Manohar, resident of Rajniti Prasad Singh Road, Madhopur, P.S. Kotwali, District Munger.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Uday Singh, Advocate.
For the State : Mr. Ravish Chandra, Act to SC 16
For Respondent(Priate) : Mr. Pramod Kumar Sinha
Mr. Arvind Kumar Sharma
Mr. Chetan Kumar, Advocates.
For respondent no.24. : Mr. T. N. Maitin, Sr. Advcoate.
Mr. Harshwardhan Sahay,
Mr. Ramadhar Singh, Advocates.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date: 15-04-2015

Heard the parties.

2. In the present writ petition petitioner has prayed for quashing the order dated 15.9.2001 passed by the Collector, Munger in Lease Renewal Case No. 208 of 1991-92 by which he has rejected the lease renewal applications of the petitioner on the recommendation dated 16.8.2001 of the Khas Mahal Officer, Munger and recommendation dated 13.9.2001 of the Additional Collector, Munger.

3. In the present case the dispute is related to rejection of applications of the petitioner of renewal of lease with respect to the Khashmahal land which was leased out to late Rai Bahadur Dalip Narayan Singh, later on, whole lease property became the part of the trust. During his life time Rai Bahadur Dalip Narayan Singh was the trustee and later on his son became the trustee and after his death grand son became managing trustee of the property. The application was filed for renewal of the lease



relates to Khashmahal which was expired in the year 1991. The matter remained pending for a quite long period and the Collector did not care to dispose of the same which compelled the petitioner to approach this Court vide C.W.J.C. No.11721 of 1998 and this Court directed the Collector to dispose of the matter within a period of six months from the date of receipt/production of a copy of this order.

4. It appears, on the direction of this Court, the Khashmahal Officer submitted his report which was approved by the Additional Collector mentioning in the report about the pendency of civil suits in the civil court vide T.S. No.97 of 1996 and on account of pendency of the case, recommended, it will not be proper grant approval for renewal of the lease and also he has recorded that the present petitioner is not in possession of the property in question. The matter was referred to the Collector, the Collector on the aforesaid ground refused to renew the lease and that is the subject matter of challenge in the writ petition.

5. Petitioner has basically taken a point that after receipt of the recommendation from Khashmahal Officer as well as from the Additional Collector, the Collector of the district was bounded duty before passing the impugned order, was to give



hearing to the petitioner and only then he would have been justified to pass the order one way or the other but in the present case the Collector without giving hearing to the petitioner has passed the order and so much so the basis for refusal of renewal of lease is no longer in existence as T.S. No.97 of 1996 has already been disposed of in his favour.

6. Learned counsel for private respondent has submitted that petitioner is not in a possession of the property in question as the land which is part of the trust has been transferred by the registered sale deed by the mother of the petitioner and instantly the possession was handed over to them.

7. This Court is not deciding the possession and status of the lease but this Court is only confined to the manner the Collector has dealt with the matter. This Court has to decide whether the Collector has followed decision making process properly and has applied the principle meant for deciding the issue of renewal of lease in a proper and legal manner. This Court is not deciding its merit but the manner the Collector has dealt with the matter, after receipt of the recommendation from Khashmahal Officer as well as Additional Collector cannot be approved as he ought to have heard the petitioner and only thereafter he ought to have passed the order. The manner the Collector has acted himself in

deciding the matter of non-renewal of lease without giving hearing to the petitioner makes the order illegal and accordingly the order dated 15.9.2001 passed by the Collector, Munger in Lease Renewal Case No. 208 of 1991-92 is hereby quashed. It is made clear before giving hearing to the petitioner he would furnish reports of the Additional Collector and of Khashmahal Officer to petitioner with the liberty to raise objection. It is also made clear that private respondent with whom is said, to have settled the land, has also a right to place his case, the Collector after hearing all the parties would pass a reasoned order in accordance with law. This Court is not giving any opinion on the merit of the case.

8. With the aforesaid observation and direction this writ petition is allowed.

(Shivaji Pandey, J)

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