

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.548 of 2015

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1. Umesh Sah son of Shri Basuri Sah resident of village - Jeeradai, P.O. and P.S. Jeeradai, Distt. - Siwan
2. Jeeradai Prakhand Matsyajivi Sahyog Samiti Ltd., Jeeradai, through its Secretary Umesh Sah Son of Shri Basuri Sah resident of village - Jeeradai, P.O. and P.S. Jeeradai, Distt. - Siwan

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Co - Operative Department, Bihar, Patna
2. The Registrar, Co - Operative Societies, Bihar, Patna
3. The Joint Registrar, Co - Operative Societies, Saran Division, Chhapra
4. The District Co - Operative officer, Siwan
5. Lal Chand Sah son of Late Haldhar Sah resident of village + P.O. + P.S. Jeeradai, Distt. - Siwan
6. Amarnath Sah son of Chandradeo Sah resident of village + P.O. + P.S. Jeeradai, Distt. - Siwan
7. Chandrawati Devi wife of Birendra Sah
8. Lutawan Sahni son of Dharikshan Sah
9. Chandrdeo Sah son of Ram Roop Sah
10. Sarswati Devi wife of Brij Mohan Sah
11. Munndrika Sah son of Ram Roop Sah
12. Basuri Sah son of Dharikshan Sah
13. Ashok Sah son of Mundrika Sah
14. Bibi Devi wife of Manoj Sah
15. Tufani Ram son of Bishuni Ram
16. Ramashray Prasad son of Late Bahadur Bin
17. Sheoji Baitha son of Ambika Baitha
18. Raman Nishad son of Raj Bali Nishad
19. Raj Kishore Prasad son of late Dwarika Prasad
20. Sheikhar Sahni son of Jang Bahadur Mallah
21. Harihar Sahni son of Sheo Pujan Sahni
22. Radha Kishun Mahto son of Briksh Mahto All resident of village + P.O. + P.S. Jeeradai, Distt. - Siwan

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mahasweta Chatterjee, Adv.

For the Respondent/s : Mr. Sidharth Prasad, A.C. to A.A.G. 4

For the respondent No.5 : Mr. Anjani Kumar Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT

8 24-06-2015 Heard Ms. Mahasweta Chatterjee learned counsel for the

petitioners, Mr. Sidharth Prasad learned counsel for the State and Mr. Anjani Kumar Jha learned counsel for the respondent No.5.

The petitioners are aggrieved by the order dated 25.8.2014/7.10.2014 passed by the Registrar, Cooperative Societies in Misc. Case No. 95 of 2011 bearing Memo No. 826/R.L. dated 9.10.2014 whereby the Registrar has set aside the reorganization of the newly constituted Jeeradai Prakhand Matsyajivi Sahyog Samiti Ltd. Jeeradai under Section 11B of the Bihar Cooperative Societies Act, 1935 (hereinafter referred to as the '1935 Act') and the rules framed thereunder.

Perusal of the impugned order as well as the records of the proceedings produced by the learned State counsel manifests that there were three Fishermen Cooperative Societies prevailing in the unified block of Hussainganj of which Jeeradai Prakhand Matsyajivi Swamblambi Sahakari Samiti Ltd. and Hussainganj Prakhand Matsyajivi Swablami Sahakari Samiti Ltd. were registered under the Bihar Self Supporting Cooperative Societies Act, 1996 (hereinafter referred to as '1996 Act'). Besides these two Cooperative societies there was a third society existing by the name of Hussainganj Matsyajivi Sahyog Samiti Ltd., Hussainganj which was registered under the '1935 Act'. The registration certificate of the two societies which were registered under the



1996 Act are placed at Annexures-A and B to the counter affidavit filed on behalf of the State. A perusal of the two certificates shows that although the registered offices of the two societies was situated in village, post and P.S. Jeeradai but the block has been mentioned as Hussainganj and the area of the operation has been mentioned as the entire block.

The records produced by Mr. Prasad manifests that four societies namely, (1) Hussainganj Prakhand Stariya Matsyajivi Swablambi Sahakari Samiti Ltd.(2) Jeeradai Prakhand Matsyajivi Swablambi Sahkari Samiti Ltd. (3) Kabirpur Matsyajivi Swablambi Sahkari Samiti Ltd. and (4) Semara Matsyajivi Swablambi Sahkari Simiti Ltd. amalgamated to constitute a new cooperative society under Section 11(B) of the '1935 Act' to constitute the Jeeradai Prakhand Matsyajivi Sahyog Samiti Ltd. and the registration certificate whereof is placed at Annexure-7 to the second supplementary affidavit filed on behalf of the petitioners. The registration certificate is dated 25.11.2010.

It is following such registration that the Managing Committee of the amalgamated society held its meeting to elect its ad hoc Managing Committee on 27.3.2011, a copy of such proceeding forms part of the records produced by Mr. Prasad and it is the decision taken in the said meeting which was questioned

by the private respondent in the Misc. Case No. 95 of 2011.

The order passed by the Registrar Cooperative societies dated 9.10.2014 impugned in this writ petition shows that the Registrar was of the opinion that since Hussainganj Prakhand Stariya Matsyajivi Swablambi Sahakari Samiti Ltd. had its area of operation within Block Hussainganj and the area of operation of Jeeradai Prakhand Matsyajivi Swamblambi Sahkari Samiti Ltd. was block Jeeradai hence the two societies could not have been merged under Section 11B of the '1935 Act' for issuance of the registration certificate dated 25.11.2010 placed at Annexure-7 and consequently the constitution of the adhoc committee was also held invalid.

Now whereas it is the contention of the Ms. Chatterjee appearing for the newly constituted amalgamated society that there was absolutely no error in the process of amalgamation, this issue is contested by the State as well as the private respondent to submit that the two societies had different area of operation as correctly held in the impugned order. A confusion which crops up in the present proceedings is that it is admitted by the State in its counter affidavit that the certificate issued to the two societies registered under the '1996 Act' on 24.7.2006 present at Annexures-A and B of the counter affidavit had erroneously



mentioned the block as Hussainganj. Now if this stand of the State that the name of the block mentioned in the registration certificate of the two self supporting societies who were earlier registered under the '1996 Act' was incorrectly mentioned as Block Hussainganj is accepted then the registered office of the two societies situated at village, post and P.S. Jeeradai would mean that the area operation is Block Jiradei and there is no error in the order of amalgamation passed under Section 11B or in the Registration certificate issued pursuant thereto dated 25.11.2010 placed at Annexure7. But if the contention of the private respondent that whereas the area of operation of the Jeeradai Matsyajivi Swamblambi Sahkari Samiti Ltd. was village and Block Jeeradai, that of Hussainganj Prakhand Stariya Matsyajivi Swamblambi Sahkari Samiti Ltd. was Block Hussainganj then the amalgamation could not have taken place. Unfortunately, these foundational facts are missing in the pleadings as well as in the records for even the records do not clearly reflect or clarify this issue. Thus until such time that the Registrar, Cooperative Societies was satisfied that the area of operation of the two self supporting societies which were earlier registered under the '1996 Act' was in two different blocks namely Hussainganj block and Jeeradai block, he could not have interfered with the order of

amalgamation passed under Section 11B of the '1935 Act' or with the unified registration certificate issued pursuant thereto on 25.11.2010.

Since these foundational facts are missing in the present case and as per Ms. Chatterjee they are available in the records of the District Cooperative Officer, I am of the opinion that the entire matter requires a reconsideration at the level of the Registrar, Cooperative societies who has to come to a conclusive finding as regarding the area of the operation of the societies which have been amalgamated under Section 11B to constitute the Jeeradai Prakhand Matsyajivi Sahyog Samiti Ltd. registered under Section 11B of the '1935 Act' vide certificate dated 25.11.2010 placed at Annexure-7.

In view of my conclusion drawn hereinabove, the order passed by the Registrar Cooperative Societies dated 25.8.2014 /7.10.2014 in Misc. Case No. 95 of 2011 is set aside and the matter is remanded back to the Registrar Cooperative Societies to reconsider the matter in the backdrop of the circular dated 30.7.2010 as well as the documents available on record reflecting the area of the operation of the societies who merged to form the Jeeradai Prakhand Matsyajivi Sahyog Samiti Ltd. under Section 11B of the '1935 Act'.

Since the parties are in attendance before this Court they shall appear before the Registrar Cooperative Societies along with the copy of this order on 6.7.2015 and when he shall fix a date of hearing in the matter and pass a fresh order in accordance with law and after hearing the contesting parties bearing in mind the observations made in this order.

Considering the nature of the matter in contest, let the matter be disposed of by the Registrar expeditiously and preferably within three months from the date of commencement of the proceedings.

The writ petition is allowed.

The records presented by Mr. Sidharth Prasad A.C. to A.A.G. 4 has been returned.

Bibhash/-

(Jyoti Saran, J)

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