

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3633 of 2003

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Bhagwat Prasad Bhagat son of Late Ajhik Lal Bhagat, resident of village-Simri
Bakhtiyarpur Purani Bazar, PS- Simri Bakhtiyarpur, District-Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Kosi Commissioner, Saharsa
3. The Collector, Saharsa
4. The Additional Collector, Saharsa
5. The DCLR, Simri Bakhtiyarpur, District-Saharsa.
6. Dashrath Prasad Gupta son of Late Singheshwar Prasad Gupta, resident of D.B.
Road, Saharsa, PS-Saharsa, District-Saharsa.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Neeraj Nandan, Adv.

For the Respondent/s : Mr. Amresh, AC to SC-11

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 22-04-2015

Heard learned counsel for the petitioner and learned
counsel for the State.

In this case, the petitioner is challenging the order
dated 17th December 2002 passed by Koshi Commissioner,
Saharsa in Revenue Revision No. 35/2001 whereby and
whereunder he has affirmed the order of Additional District
Magistrate, Saharsa passed in Appeal No. 39/1995-96 in Fixation
of Fair Rent Case No. 3/1993-94 which was passed in favour of
the petitioner by Deputy Collector Land Reforms.

It appears that the D.C.L.R. being an Appellate
Authority exercised the power of original Authority
whereas the Circle Officer is the proper Trial Authority, passed



the order in favour of the petitioner and against that, Respondent no. 6, Dashrath Prasad Gupta approached the Additional Collector treating him to be an Appellate Authority and filed an appeal before him which was registered as Appeal No. 39/1995-96 which was decided in favour of the opposite party. Against that, the petitioner himself had gone in revision before Divisional Commissioner, Koshi is no longer Revisional Authority vide Revenue Revision Case No. 35/2001, unsuccessfully.

In the present case, all the authorities have wrongly exercised the power. The LRDC is/was not the original Authority rather the Circle Officer was the original Authority under the Bihar Tenants Holdings (Maintenance of Records) Act, 1973 and against the order of Circle Officer, the power of lies with the DCLR but the DCLR acted as an original Authority, whereas Additional Collector is not appropriate authority so much so Divisional Commissioner has not been authorised as a Revisional Authority wrongly exercised the power.

As it appears that all the authorities have wrongly exercised the power and passed the order sometimes in favour of the petitioner and sometimes in favour of the opposite party, in such view of the matter, all the three orders are not sustainable, accordingly, they are brought to the position of nullity. Accordingly, all orders are set aside. However, liberty is

given to the petitioner to take appropriate action in accordance with law.

Accordingly, this petition is disposed of.

(Shivaji Pandey, J)

Mahesh/-

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