

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3235 of 2013

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1. Kanhai Mandal, S/O Chhedi Mandal
2. Ledi Mandal, S/O Late Sukhai Mandal
3. Paddo Mandal, S/O Late Sukhai Mandal
All R/O Village- Dilli Diwanganj, P.S.- Amdabad, District- Katihar
4. Md. Taja, S/O Fazlu Haque, R/O Villge- Khopa Kathi, P.S.-
Harischandrapur, District- Malda (West Bengal)
5. Maqbool Hussain, S/O Late Kus Mohammad
6. Bahid Ali, S/O Dorashtulla
Both R/O Village- Nawsapara, P.S.-Harischandrapur, District- Malda
(W.B.) Petitioner/s

Versus

1. The State Of Bihar
2. The Divisional Commissioner, Purnea
3. The Collector, Katihar
4. The Sub-Divisional Officer, Manihari, District- Katihar
5. The Dy. Collector, Land Reforms, Manihari, Katihar
6. The Circle Officer, Amdabad, District- Katihar
7. Shambhu Prasad Jaiswal, S/O Late Ram Lakhan Jaiswal, R/O Village-
Basta, P.S.- Harischandrapur, District- Malda (W.B.) Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bhola Prasad
For the Respondent nos.1to6 : Mr. Raju Giri, GP-30
Mr.Nikhil Kumar Agrawal, AC to GP-30
For the Respondent no.7 : Mr.Jayram Sharma

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 03-11-2015 Heard the parties.

The petitioners are aggrieved by the order dated 14.11.2012 (Annexure-1) passed in Land Dispute Case No.49 of 2012-13 by the respondent D.C.L.R., Manihari, whereby the petition filed on behalf of the respondent no.7 under the provisions of The Bihar Land Disputes Resolution Act, 2009 (in short 'Act, 2009) has been allowed and the respondent Circle Officer has been directed to demarcate the lands in question.

Learned counsel appearing on behalf of the petitioners has raised various issues with respect to the lands in question, which have been contested by the learned counsel appearing on behalf of the respondent no.7 by filing a detailed

counter affidavit.

From the materials available on the record, this Court finds that the several issues of facts have been raised by the parties and against the impugned order the petitioners have an alternative and efficacious remedy before the appellate authority in terms of Section 14 of the Act, 2009.

In the considered opinion of this Court, the issues of facts must be raised and conclusively decided by the statutory authorities, at the first instance, and only thereafter the powers of judicial review under Article 226 of the Constitution of India of the High Court may be invoked.

In above view of the matter, the writ petition is dismissed with a liberty to the petitioners to approach the appellate authority for redressal of their valid grievances.

If such an appeal is filed on behalf of the petitioners within a period of four weeks from today with a certified copy of the present order and, if it is found to have become barred by limitation and, if any petition is filed on behalf of the petitioners for condonation of such delay, then the appellate authority shall take into consideration that on a bonafide legal advice the present writ petition was filed on 13.02.2013 and that remained pending before this Court till date.

It is further clarified that the parties shall be at liberty to raise all the issues of facts and law with respect to the lands under dispute, which may be available to them, before the learned appellate authority.

Arvind/-

(Birendra Prasad Verma, J)

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