

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.967 of 2015

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1. Rajendra Singh.
 2. Kameshwar Singh.
 3. Indradeo Singh.
 4. Uday Singh.

All are sons of Late Basudeo Singh and are residents of Village-
Baraila, P.S-Fatehpur, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate -cum- Collector, Gaya.
3. The Additional Collector, District- Gaya.
4. The Deputy Collector Land Reforms, Sadar, Gaya.
5. The Circle Officer, Tankuppa, District- Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Onkar Kumar

For the Respondent/s : Mr. Prabhat Kumar, AC to GA-2

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 29-07-2015 Heard Mr. Onkar Kumar, learned counsel appearing

on behalf of the petitioners and Mr. Prabhat Kumar, learned

Assisting Counsel to Government Advocate No.2 for the State.

The petitioners are aggrieved by the order dated
2.7.2014 passed by the respondent no.3 i.e. the Additional
Collector, district- Gaya in Rent Fixation Appeal Case No.49 of
2013-14, whereby the Additional Collector as an appellate
authority has dismissed the appeal and confirmed the order dated
7.9.2013 passed by the respondent no.4 i.e. the Deputy Collector
Land Reforms, Sadar Gaya (hereinafter referred to as 'the
DCLR') in Rent Fixation Case No.02 of 2010-11/106 of 2012-

13, whereby the prayer of the petitioners for fixation of rent has been rejected.

The facts of the case briefly stated is that the petitioners filed a title suit in respect of the lands in question, the details of which are mentioned in paragraph 4 of the writ petition as well as in the order passed by the appellate authority impugned at Annexure-1 to the writ petition, bearing Title Suit No.223 of 2008/144 of 1987 and which title suit has been decreed in favour of the petitioners by the trial court vide judgment and decree dated 30.9.2008. It is following the decree in favour of the petitioners that they approached the 'DCLR' for fixation of rent in respect of the plots and which was disposed of by 'the DCLR' vide order dated 7.9.2013 passed in Rent Fixation Case No.02 of 2010-11/106 of 2012-13 with an advise to the Circle Officer, Tankuppa to contact the Government Counsel for filing an appeal against the judgment and decree passed in the suit. The said opinion of 'the DCLR' has been parroted by the Additional Collector while dismissing the appeal filed by the petitioner on 2.7.2014 bearing Rent Fixation Appeal Case No.49 of 2013-14.

The opinion of the two statutory authorities is absurd and is only taken to be rejected. The moment a decree is passed



in favour of the petitioners in relation to the land in question they have become entitled to enjoy the fruits of the decree as also to discharge the liability arising therefrom in the form of payment of rent. Bonafidely the petitioners approached the revenue authority and which prayer of the petitioners stands rejected on a presumptuous opinion of likelihood of an appeal being filed against the decree in the title suit.

A counter affidavit has been filed on behalf of the State and which speaks of everything except the issue to be answered by the respondents as to the reasons for denial of prayer of the petitioners for fixation of rent. The only relevant part is paragraph 4 of the counter affidavit in which it is stated that the State has filed Title Appeal No.11 of 2015 against the judgment and decree dated 30.9.2008 passed in Title Suit No.223 of 2008/144 of 1987 by the Sub-Judge-4, Gaya. A mere pendency of the appeal would not amount to staying the decree. The relief so granted to the petitioners by trial court is also binding on the respondents.

In the circumstances set forth let a writ of mandamus be issued commanding the respondent- DCLR to pass necessary orders on the prayer made by the petitioners for fixation of rent in respect of the lands, the details of which find mention in their

application, in paragraph 4 of the writ petition as well as in the impugned order passed by the Additional Collector, Gaya placed at Annexure-1.

The writ petition is allowed. The order be complied within three months from the date of receipt/production of a copy of this order.

It goes without saying that the relief so granted to the petitioners would be subject to the final outcome of the title appeal.

(Jyoti Saran, J)

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