

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12023 of 2009

=====

Nand Kishor, son of late Mithila Singh, resident of village-Sikanderpur,
P.S.-Bihta, District-Patna, at present –Bhramharshi Lane, near Arvind
Mahila College, P.S.-Kadamkuan, District-Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Secretary and Commissioner, Land Reforms and Revenue Department,
Government of Bihar, Patna.
3. Commissioner, Patna Division, Patna.
4. Collector, Patna.
5. Additional Collector, Patna.
6. Sub-Divisional Magistrate, Danapur, Patna.
7. Deputy Collector Land Reforms, Danapur, Patna.
8. Circle Officer, Bihta, Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Amar Nath Singh
Mr. Ajatshatru

For the Respondent/s : Mr. Jai Vardhan Narayan, AC to AAG-3

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

6 20-08-2015

Heard the parties.

The petitioner, claiming to be the purchaser from the heirs of original settlee of the lands in question bearing khata no.602, plot no.2749, area 34 decimals situate at Mauza Sikandarpur, District-Patna, is essentially aggrieved by the order/recommendation dated 22.11.2006 passed in Jamabandi Cancellation Case No.01 of 2006-07 by the respondent District Collector, Patna, whereby, in the light of the recommendation made by the Anchal Adhikari, Bihta and D.C.L.R., Danapur, he referred the matter to the Department of Revenue & Land Reforms, Government of Bihar, Patna through the Divisional Commissioner, Patna for taking action under Section 4(h) of the Bihar Land Reforms Act, 1950 (in short 'B.L.R. Act, 1950').

Learned counsel appearing on behalf of the petitioner



submits that the land in question was settled by ex-intermediary prior to 1940 in favour of one Krit Narayan Singh, who gifted the same to the ancestor of one Rameshwar Pandey. The petitioner claims to have purchased the land in question from the son and daughter-in-law of aforesaid Rameshwar Pandey through sale deeds executed in the year 1986 and 1990. The grievance of the petitioner is that the impugned action has been taken by the respondent District Collector, Patna without giving any opportunity of hearing either to the petitioner or the ex-settlee or his descendants. Furthermore, he pointed out that the order/recommendation impugned is not in consonance with the requirement of Section 4(h) of the B.L.R.Act, 1950.

Learned AC to AAG-3 appearing on behalf of the respondents has contested the matter. He submitted that, despite opportunity given by the Anchal Adhikari, Bihta and the D.C.L.R., Danapur, no document was furnished by the petitioner. He further submitted that the land in question is recorded as Gair Mazarua Malik and no document is available to show that the ex-landlord had settled the land in question in favour of any person before vesting of Zamindari. However, he has not been able to show that before making impugned recommendation any notice was issued by the respondent District Collector either to the petitioner or to the so-called settlee or his descendants. It is also pointed out that the recommendation made by the District Collector has not been finally approved by the State Government and is still pending there for approval.

After having heard the parties and on consideration of the materials available on the record, this Court is of the opinion that this matter requires re-consideration and fresh



decision by the respondent District Collector, Patna. While exercising the power under Section 4(h) of the B.L.R. Act, 1950, the Collector under the Act, is required to record a finding that the transfer including the settlement or lease of land in question was made after 01.01.1946 with an object to defeat the provisions of the B.L.R. Act, 1950 or for causing loss to the State. Only thereafter, he is required to proceed further, as per the requirements indicated in Section 4(h) of the B.L.R. Act, 1950 itself.

In the present case, it appears that the requirements/mandates of Section 4(h) of the B.L.R. Act, 1950 have not been fully complied with. No finding of fact has been recorded by the respondent District Collector that the settlement/transfer of the land in question was made after 01.01.1946 with a view to defeat the provisions of the B.L.R. Act, 1950 or for causing loss to the State. He has simply relied upon the recommendations of the Anchal Adhikari, Bihta and the D.C.L.R., Danapur before passing the impugned order dated 22.11.2006. The District Collector does not appear to have issued any notice either to the claimants or the settlee of the lands in question.

For the reasons recorded above, the impugned order/recommendation dated 22.11.2006 passed in Jamabandi Cancellation Case No.01 of 2006-07, which is part of Annexure-1, is hereby set aside, and the matter is remitted back to the respondent District Collector, Patna with a direction to pass a fresh order in accordance with law after complying the requirements of Section 4(h) of the B.L.R. Act, 1950 and the Rules made thereunder. The petitioner shall also be given reasonable

opportunity of hearing to place his case with respect to the lands in question.

In order to expedite the matter, the petitioner is directed to appear before the respondent District Collector, Patna within a period of four weeks from today with a certified copy of the present order as also with all the relevant documents in support of his claim over the lands in question. Thereafter, the respondent District Collector, Patna either himself shall proceed further in the matter and shall pass an appropriate order in accordance with law or he may refer the matter to the Collector under the B.L.R. Act, 1950, who in turn shall pass an appropriate order in accordance with law in the light of observations made above.

The petitioner shall be at liberty to raise all the issues of facts and law before the respondent District Collector, Patna, or in case of transfer, before the Collector under the B.L.R. Act, 1950, which may be available to him.

The writ petition stands allowed to the extent indicated above.

(Birendra Prasad Verma, J)

Arvind/-

U			
---	--	--	--