

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1269 of 2011

With

Interlocutory Application No. 4187 of 2013

Indu Kumari w/o Sri Kapildeo Kunwar, R/o village- Fakhrurai ka Tola (Tola Fakhrurari), P.O. Tola Fakhrurai, P.S. Bairiya, District Ballia State Uttar Pradesh

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Co-operative Department, Government of Bihar, Vikash Bhawan, Patna.
2. The Registrar, Co-operative Department, Government of Bihar, Vikash Bhawan, Patna.
3. The Director General-cum- Inspector General of Police, Bihar, Old Secretariat, Patna.
4. The District Magistrate, Patna.
5. The Senior Superintendent of Police, Patna.
6. The Station House Officer, Rupaspur, District- Patna.
7. The Secretary, Bitta Bhibhag Karamchari Sahkari Grih Nirman Samiti Ltd. Birla Colony, Phulawarisharif, Patna.
8. Kumkum Singh wife of Raushan Kumar Singh.
9. Raushan Kumar Singh son of not known, both resident of village and P.O.- Barail, P.S. and District Supaul.
10. Bina Sharma wife of Bharat Kumar Sharma
11. Bharat Kumar Sharma, both resident of village- and P.O. Phatahpur, P.S.- Nath Nagar, District- Bhagalpur.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Dinu Kumar
Mr. Shiv Kr. Prabhakar
Mr. Arvind Kr. Sharma
Mr. Mayank Kumar

For the Respondent No.1 to 6: Mr. Ajit Pratap Singh, SC-15

For the Respondent No.8 to 11: Dr. Sanjay Kumar Singh

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 04-05-2015

Heard the parties.

The matter at issue is the allotment of a plot of land bearing Society Plot no. B 102(17), Survey plot no.4, khata no.29 situate at Mauza Sabajpura, P.S. Rupaspur, District- Patna (hereinafter to be referred to as the lands in question) by the respondent no.7.

Learned counsel appearing on behalf of the petitioner submits that Bitta Bhibhag Karamchari Sahkari Grih Nirman Samiti



Ltd., Patna is a registered society (In short ‘registered Society’) and the petitioner as also the respondent no.10 are/were the members of the aforesaid registered society. According to him, the lands in question were allotted by the aforesaid registered society in favour of the petitioner. Therefore, the private respondents are not legally authorised to create any obstruction regarding right, title and possession of the petitioner over the lands in question.

The matter has been contested by the private respondents. According to them, the lands in question were allotted in favour of the respondent no.10 by the aforesaid registered society. Subsequently, she, having valid right, title and possession over the same, transferred a part of the land in favour of the respondent no.8 and remaining part in favour of one Rupam Jha.

At this stage it is relevant to mention here that the petitioner has filed I.A. No. 4187 of 2013 for impleading the aforesaid Rupam Jha as respondent no.12 in the present writ petition.

There is inter se dispute amongst the parties regarding valid allotment of lands in question by the aforesaid registered society. Under Section 48 of Bihar Co-Operative Societies Act, 1935 (In short ‘the Act’), such dispute can be appropriately gone into by the Registrar of the Co-operative Society. Admittedly, the petitioner has not filed any petition for resolution of dispute in terms of Section 48 of the Act.

It is well settled that the issues of fact must be raised and appropriately decided by the statutory authorities and only thereafter power of judicial review under Article 226 of the Constitution may be invoked. Since the petitioner has got efficacious and alternative remedy under Section 48 of the Act, therefore, this Court is not inclined to accede to the prayer made on behalf of the petitioner in the

present writ petition. The writ petition is, therefore, dismissed. I.A. No. 4187 of 2013 stands accordingly disposed of.

However, if the petitioner files an appropriate petition under Section 48 of the Act in the prescribed format within a period of three weeks from today after impleading all the necessary parties, then the respondent no.2- Registrar of the Co-operative Society shall be obliged to consider and decide the claim of the petitioner by a reasoned and speaking order after giving an opportunity of hearing to all concerned. The parties shall be at liberty to raise all the issues of facts and law before the respondent no.2- Registrar of the Co-operative Society, which are available to them in the factual matrixes of the present case.

(Birendra Prasad Verma, J)

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