

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6004 of 2011

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Abdul Hafiz Qureshi son of Late Noor Mohammad Qureshi, resident of village Amla Tola Rajendra Gram, Police Station and District Katihar

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Katihar
3. The Block Development Officer, Katihar
4. The Circle Officer, Katihar
5. The Anchal Amin, Katihar
6. Most. Jitni Devi wife of Late Shiva Narayan Sah, resident of village Lalishahi, Indra Nagar, District Katihar
7. Pawan Devi wife of Sri Upendra Thakur, resident of village Durga Asthan Chowk, District Katihar
8. Geeta Devi wife of Sri Suresh Chandrawanshi, resident of village Durga Asthan, Ragendra Gram, Police Station and District Katihar
9. Fulbati Devi wife of Late Bhuneshwar Sah, resident of Anthalay Road, District Katihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajeeva Roy, Advocate
Mr. Rajendra Prasad Sah, Advocate

For the Respondent Nos. 1 to 5 : Mr. Dhurjati Kr Prasad, GP 7
Mr. Md. Faiz Ahmad, AC to GP 7

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 08-05-2015

Heard the parties.

The petitioner is aggrieved by the order dated 24.01.2011 (Annexure-2) passed in Case No. 87/10-11 along with other analogous cases by the respondent Anchal Adhikari, Katihar.

Learned counsel appearing on behalf of the petitioner has fairly submitted that the order impugned has been passed under the provision of The Bengal Survey Act, 1875 and the impugned order is appealable under Section 59 of the said Act .

This Court is of the considered opinion that the issues of fact must be raised and conclusively decided by the statutory authority and only thereafter power of judicial review under

Article 226 of the Constitution of India may be invoked.

In above view of the matter, learned counsel appearing on behalf of the petitioner, in presence of learned GP7, appearing on behalf of the respondent nos. 1 to 5, seeks permission to withdraw the present writ petition with a liberty to file an appeal before the prescribed appellate authority.

Permission is accorded.

The writ petition stands finally disposed of as withdrawn with the liberty aforesaid.

If such an appeal is filed on behalf of the petitioner within a period of three weeks from today with a certified copy of the present order and if it is found that it has become barred by limitation and if any petition is filed on behalf of the petitioner for condonation of such delay, then the learned appellate authority shall take into consideration that on a bona fide legal advice, the present writ petition was filed on 01.09.2011 and that remained pending before this Court till date and shall hear the matter on merits without dismissing the same on the ground limitation.

(Birendra Prasad Verma, J)

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