

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16306 of 2013

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1. Smt. Anita Devi W/O Shri Sewak Kr. Resident Of Village And P.O- Chuhari, P.S- Chanpatia, District- West Champaran (Betia)
 2. Smt. Geeta Devi W/O Shri Kishundeo Sah Resident Of Village And P.O- Chuhari, P.S- Chanpatia, District- West Champaran (Betia)
 3. Smt. Sarita Devi W/O Shri Lal Bihari Sah Resident Of Village And P.O- Chuhari, P.S- Chanpatia, District- West Champaran (Betia)

.... Petitioners

Versus

1. The State Of Bihar.
2. The Collector, West Champaran (Betiah)
3. The Additional Collector, West Champaran, Bettiah.
4. The Deputy Collector Land Reform (D.C.L.R), West Champaran (Betiah)
5. The Circle Officer, Chanpatia, District- West Champaran (Betiah)
6. Shri Kaushal Kumar S/O Late Dharam Sah Resident of Village And P.O- Chuhari, P.S- Chanpatia, District- West Champaran (Betiah)

.... Respondents

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Appearance :

For the Petitioners : Mr. Mritunjay Kumar, Advocate
For the State : Mr. Dinbandhu Singh, G.P. IX
For the Respondent No. 6: Mr. Lalan Kumar Verma, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 09-01-2015

Heard learned counsel for the petitioners, the State and the respondent no. 6.

This writ application has been filed for quashing the order passed by the Deputy Collector Land Reform, Bettia in Case No. 29 of 2006-07 by which he has set aside the earlier order passed by the Anchala Adhikari in favour of the petitioners and the revisional order passed by the Additional Collector, West Champaran, Bettia in Mutation Revision Case No. 170 of 2009-10

upholding the aforesaid decision of Deputy Collector Land Reforms. It is submitted by the petitioners that the Deputy Collector Land Reform, Bettia, without following the principle of natural justice, i.e., without granting them reasonable opportunity of hearing, has set aside the order of Circle Officer passed in Case No. 1131 of 2003 – 04 in which order of mutation of the concerned land was passed in their favour. The revisional authority has also rejected the claim of the petitioners without considering the aforesaid aspect and other materials.

Learned counsel for the State has raised a question that the petitioners have come without exhausting the alternative and efficacious remedy which is available to them under Section 9 and Section 14 of Bihar Land Tribunal Act in which the petitioners could well have moved before it.

The orders impugned appear to have been passed by the concerned authorities under the provisions of Bihar Tenants Holdings (Maintenance of Records) Act, 1973 which was earlier notified under Section 9 of the Bihar Land Tribunal Act. However, subsequently vide notification No. 8 dated 30.1.2013, the aforesaid Statute was deleted from Section 9 of the Bihar Land Tribunal Act and Bihar Land Mutation Act has now been inducted in it. From perusal of Section 23 of the Bihar Land Mutation Act, 2011, which

is repeal and saving clause, it appears that the action done or taken in exercise of the power conferred under the Bihar Tenants Holdings (Maintenance of Records) Act, 1973 prior to coming to the Act has been saved as it has been declared that such actions done would deem to have been done or taken in exercise of power under the Bihar Land Mutation Act, 2011 which now finds its place under Section 9 of the Bihar Land Tribunal Act, 2011.

In above view of the matter, this writ application is being disposed of with a liberty to the petitioner to approach the Bihar Land Tribunal Act, 2011 by filing an application under the appropriate provision. It is submitted that if such application is made within a period of two months then that should be disposed of by the Tribunal concerned on its own merit and in accordance with law.

(Dr. Ravi Ranjan, J)

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