

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7639 of 2013

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Mosst. Degni Devi widow of Late Shibalak Sao R/O Village- Kewla Police
Station - Mohanpur, District- Gaya

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Gaya
3. The Additional Collector, Gaya
4. The Land Reforms Deputy Collector, Sherghati, District- Gaya
5. Anchal Adhikari, Mohanpur, District- Gaya
6. Jitan Choudhary S/O Late Moti Choudhary R/O Village- Kewla, P.O.-
Ambatari, P.S.- Mohanpur, District- Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar Singh, Advocate
Mr. Ramashish, Advocate

For the Respondent Nos. 1 to 5: Mr. Ravi Bhardwaj, AC to GA 5

For the Respondent No. 6 : Mr. Deepak Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 10-11-2015

Heard the parties.

The petitioner is aggrieved by the order dated 21.06.2012 passed in Jamabandi Correction-cum-Parwana Cancellation Case No. 32 of 2011-12 by the respondent DCLR, Sherghati, as contained in Annexure-3 to the writ petition, whereby the aforesaid case filed on behalf of the petitioner has been dismissed with certain observations and directions.

Learned counsel appearing on behalf of the respondents, at the very threshold, submitted that against the impugned order, the petitioner has an alternative and efficacious remedy before the appellate forum as prescribed under the provisions of The Bihar Land Mutation Act, 2011 (in short, “the Mutation Act, 2011”).

Submissions made by the learned counsel appearing on behalf of the respondents appear to be correct.

In the considered opinion of this Court, the issues of facts must be raised and conclusively decided by the statutory authorities, at the first instance, and only thereafter, the powers of judicial review under Article 226 of the Constitution of India of the High Court may be invoked.

In above view of the matter, the learned counsel appearing on behalf of the petitioner seeks permission to withdraw the present writ petition with a liberty to approach the appellate authority as provided under the provisions of the Mutation Act, 2011 for grant of appropriate relief (s) with respect to the lands under dispute as also with respect to the order impugned.

Permission is accorded.

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

If an appropriate appeal is filed on behalf of the petitioner within a period of four weeks from today with a certified copy of the present order and if it is found to have 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 before this Court on 10.04.2013 and that remained pending till date.

It is clarified that before passing any final order in the appeal to be filed on behalf of the petitioner, an opportunity of hearing must be given to all concerned including the private respondent no.6.

(Birendra Prasad Verma, J)

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