

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18213 of 2012

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Rajak Sah S/O Late Mahboob Sah, R/O Village- Bhuthahi, P.O.- Sonbarsa,
P.S.- Sonbarsa, District- Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Sitamarhi
3. The Sub Divisional Magistrate, Sadar, Sitamarhi
4. The Deputy Collector, Land Reforms, Sitamarhi
5. The Consolidation Officer, Sitamarhi
6. The Circle Officer, Sonebarsa, Sitamarhi

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Sinha

For the Respondent/s : Mr. Saroj Kr. Sharma, AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 08-10-2015

Heard the parties.

The matter at issue is the claim of the petitioner for the mutation of the lands in question in his favour under the provisions of The Bihar Land Mutation Act, 2011 (in short 'Act, 2011').

It is submitted by the learned counsel that the respondent Circle Officer made a proposal for fixation of rent in favour of the petitioner, but the said proposal has wrongly been rejected and reversed by the respondent D.C.L.R. by the impugned order dated 16.08.2010 (Annexure-6).

Indisputably, the petitioner has a statutory remedy of revision before the District Collector/ Additional Collector of the district in terms of Section 8 of the Act, 2011, but the petitioner, without exhausting the aforesaid statutory remedy, has approached this Court in the present proceeding.

The matter has been contested by the respondents by filing a counter-affidavit on their behalf. Learned State counsel, by

referring to the averments made in the counter-affidavit, submits that the lands in question do not belong to the petitioner, rather it relates to a mosque.

Though a copy of the aforesaid counter-affidavit was served upon the learned counsel appearing on behalf of the petitioner way back on 14.11.2014, but no rejoinder affidavit has been filed till date controverting the claims made in the aforesaid counter-affidavit.

It is well settled that on the basis of disputed question of facts, no writ should be issued by the High Court in exercise of its powers under Article 226 of the Constitution of India. The claim of the petitioner is apparently based on disputed question of fact. The respondent D.C.L.R. has already observed in his impugned order that the petitioner, if so advised, may approach the civil court of competent jurisdiction for grant of appropriate relief with respect to the lands in question.

In above view of the matter, this writ petition is completely misconceived, and is, accordingly, dismissed, but without costs.

(Birendra Prasad Verma, J)

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