

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13410 of 2012

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Dorik Pandit, S/O Late Aklu Pandit, R/O Mohalla- Saha Naya Tola
(Musechak), P.S.- Sahebpur Kamal, District- Begusarai

.... Petitioner/s

Versus

1. The State of Bihar
 2. The District Magistrate, Begusarai
 3. The Deputy Commissioner, Land Reforms, Ballia, District- Begusarai
 4. The Circle Officer (Anchal Adhikari) Sahebpur Kamal Anchal, District- Begusarai
 5. The Anchal Amin, Sahebpur Kamal, Anchal in the District Of Begusarai
 6. The Officer-In-Charge, Sahebpur Kamal Police Station, District- Begusarai
 7. Shankar Pandit
 8. Shambhu Pandit
- Both sons of Ramotar Pandit, R/O Mohalla- Saha Naya Tola (Musechak),
P.S.- Sahebpur Kamal, District- Begusarai

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abul Kalam
For the Respondent nos.1to6	:	Mr. Mrigendra Kumar, AC to GA-11
For the Respondent nos.7&8	:	Mr.Santosh Kumar Sinha-2
		Mr.Uttam Kumar Mishra

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

9 05-10-2015 Heard the parties including the learned counsel
appearing on behalf of the respondent nos.7 and 8.

The only grievance of the petitioner is that though the Land Dispute Resolution Case No.12 of 2011 filed by him under Section 4 of The Bihar Land Disputes Resolution Act, 2009 (in short 'Act, 2009') with respect to the lands in question was finally allowed by an order dated 13.12.2011 (Annexure-1) after giving an opportunity of hearing to all the parties and a direction was issued to the respondent Anchal Adhikari, Sahebpur Kamal to put back the petitioner in possession over the lands in question for which he was granted Basgit (Homestead) Parcha under the

provisions of The Bihar Privileged Persons Homestead Tenancy Act, 1947 (in short 'Act, 1947'), yet till date the aforesaid order has not been executed/implemented and the petitioner has not been put back in possession over the same.

Learned counsel appearing on behalf of the petitioner submits that for the lands in question the petitioner was granted Basgit (Homestead) Parcha dated 29.02.1996 (Annexure-9) under the provisions of the Act, 1947 and he was coming in possession over the same. However, there was some disturbance at the hands of the private respondent nos.7 and 8; therefore, a petition was filed on behalf of the petitioner under Section 4 of the Act, 2009, which gave rise to the Land Dispute Resolution Case No.12 of 2011 in the court of the respondent D.C.L.R., Ballia, the 'competent authority', under the meaning of the Act, 2009. It is further submitted that, in the aforesaid case, notices were issued to the both sides including the private respondent nos.7 and 8 and after considering the claim of the parties the aforesaid case was finally disposed of by an order dated 13.12.2011 (Annexure-1) with a direction to the respondent Circle Officer, Sahebpur Kamal (District-Begusarai) to put back the petitioner in possession over the lands in question for which he was granted Basgit (Homestead) Parcha, after removal of encroachment, if any, made by the private respondents. It is contended that against the impugned order, the private respondent nos.7 and 8 preferred an appeal before the Divisional Commissioner, but that was dismissed and the order passed by the respondent D.C.L.R. was affirmed. It is the case of the petitioner that for execution of the aforesaid order, he had approached the competent authority i.e. the respondent D.C.L.R., Ballia, whereafter a direction was issued to

the Anchal Adhikari, Sahebpur Kamal to put back the petitioner in possession over the lands in question, yet he has not been put back in possession over the lands in question.

Learned State counsel appearing on behalf of the respondent nos.1 to 6 has opposed the prayer by referring to the averments made in the counter affidavit filed on behalf of the respondent nos.2 to 5. He has drawn the attention of this Court towards averments made in para 6 of the aforesaid counter affidavit and submitted that, in fact, the order passed by the respondent D.C.L.R. has already been implemented and the petitioner has been given possession over the lands in question.

A reply affidavit has been filed on behalf of the petitioner disputing the aforesaid assertions made on behalf of the respondent nos.2 to 5 and it has been stated that possession of the petitioner has been shown merely on papers, but actual physical possession has not been given to him. Therefore, it is pleaded that an appropriate direction may be issued to the competent authority to execute his own order.

Learned counsel appearing on behalf of the respondent nos.7 and 8 has opposed the prayer on merits. According to him, the respondent nos.7 and 8 are the purchasers of the lands in question and, therefore, their right is also required to be protected. However, he has not disputed the fact that before the respondent D.C.L.R. they were heard in the aforesaid Land Dispute Resolution Case No.12 of 2011, yet the order was passed against them. It is contended by the learned counsel that against the order passed by the respondent D.C.L.R., they preferred appeal before the Divisional Commissioner, Munger under Section 14 of the Act, 2009, which gave rise to the Appeal No.242 of 2012, but



according to the learned counsel, the appellate authority has also not considered the case of the private respondent nos.7 and 8 in its proper perspective and the aforesaid appeal was dismissed. He next contended that against the aforesaid orders, they have approached the learned Bihar Land Tribunal, Patna for grant of appropriate relief. However, he has not been able to show that any stay order has been passed by the learned Bihar Land Tribunal, Patna.

After having heard the parties and on consideration of the materials available on record, this Court is of the opinion that till the order passed by the respondent D.C.L.R., Ballia is not reversed or set aside by any competent authority or court, the petitioner cannot be deprived from the benefit of the aforesaid order. So far the respondent nos.7 and 8 are concerned, indisputably, their claims have not been accepted by the original authority as also the appellate authority. They have not been able to get any stay order by the learned Bihar Land Tribunal, Patna. Section 15 of the Act, 2009 mandates that the order passed under the provisions of the aforesaid Act is required to be executed by the competent authority. Though the respondent nos.1 to 6 has stated that the order passed by the respondent D.C.L.R. has been executed, but this fact is seriously disputed by the petitioner.

In above view of the matter, the petitioner is directed to appear once again before “the competent authority” with a certified copy of the present order as also an appropriate petition under Section 15 of the Act, 2009. If such a petition is filed on behalf of the petitioner within a period of two months from today, the respondent D.C.L.R., Ballia shall be obliged to register an appropriate case and shall take all follow-up actions for execution

of the order dated 13.12.2011 (Annexure-1) passed by him in Land Dispute Resolution Case No.12 of 2011 till that is not reversed or set aside by any higher forum/court/tribunal.

It is expected that the respondent D.C.L.R., Ballia shall pass an appropriate final order for execution of the order, as contained in Annexure-1, at an early date preferably within a period of three months from the date of filing of the petition by the petitioner in the manner indicated above.

The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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