

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2335 of 2015

=====

Purnima Devi Goshala , Sonaili , Kadwa, Katihar through its Secretary Lalit Kumar Singh son of late Ramsagar Singh, resident of Kantiya (Goshala Road), P.S.- Kadwa, District- Katihar.

.... Petitioner/s

Versus

1. The State of Bihar
 2. The Divisional Commissioner, Purnea Division, Purnea.
 3. The Collector, Katihar, District- Katihar.
 4. The Additional Collector, Katihar, District- Katihar
 5. The Land Reforms District Collector, Barsoi, District- Katihar
 6. The Circle Officer, Anchal Kadwa, District- Katihar
 7. Molai Sharma, son of Late Baso Sotihar.
 8. Vijay Sharma, son of Late Baso Sotihar.
- Respondent nos. 7 and 8 resident of village Sohasa, P.O.- Jhaua, P.S.- Kadwa, District- Katihar.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Dharendra Kumar Jha

For the Respondent/s : Mr. ANIL KR UAPDHYAY

=====

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 05-02-2015

Heard Mr. Jha for the petitioner and Mr. Nikesk Kumar,

A.C. to S.C. 20 for the State.

The application is directed against the notice dated 27.9.2014 (Annexure-6) issued by the respondent Deputy Collector, Land Reforms, Barsoi calling upon the petitioner to appear and to show cause as to why the Jamabandi no. 158 created in the name of Purnima Devi Goshala, Sonaili vide Mutation Case No. 3065 of 2005-06 be not cancelled.

The contention of the petitioner is that the said order has been passed in the light of order dated 21.11.2013 passed in Land



Dispute Appeal No. 45 of 2013 (Annexure-5) by the respondent Divisional Commissioner wherein the petitioner was not made a party. One Devi Sharma was impleaded as the opposite party who was only the Chowkidar of the Goshala. On this ground, it has been submitted that issuance of notice itself is bad in law.

Counsel for the State, on the other hand, has contended that the order has been passed by the Divisional Commissioner exercising the jurisdiction under the Bihar Land Dispute Resolution Act, 2009 and as such the remedy would lie before the Bihar Land Tribunal.

The impugned notice only calls upon the petitioner to show cause as to why the jamabandi created in the name of the Goshala be not cancelled. Once the petitioner appears and files objection, the same shall be considered in accordance with law. Having considered the rival submissions made at the Bar and on perusal of the materials on record, it is explicit that the petitioner has been only directed to appear and place his case for consideration. No decision as yet has been taken although the notice refers to the order passed by the Divisional Commissioner in Appeal No. 45 of 2013. The order dated 21.11.2013 of the Divisional Commissioner does not specifically direct such action after setting aside the order of the Deputy Collector, Land Reforms passed in Land Dispute Case No. 125 of 1012-13 (Molai Sharma and Anr. versus Devi Sharma and

Ors.) rejecting the case of the applicant of the said case.

Regard being had to above, this Court would direct the petitioner to appear before the respondent Deputy Collector, Land Reforms pursuant to the notice impugned in this application and file his entire document and make proper submission in order to justify that the jamabandi created in the name of the Goshala does not require any alteration/modification/cancellation. Once the petitioner appears and files the objection/show cause, the Deputy Collector, Land Reforms will consider the same and pass appropriate but reasoned order in accordance with law. Mr. Jha, Counsel for the petitioner has undertaken to respond to such notice within three weeks.

Until disposal of the objection to be raised by the petitioner, the respondent Deputy Collector, Land Reforms shall desist from passing any order respecting the land of the petitioner recorded vide Jamabandi No. 158.

The writ application is disposed of with the aforesaid observations and directions.

(Kishore Kumar Mandal, J)

Pankaj/-

U			
---	--	--	--