

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1316 of 1999

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KAMAL NAYAN RAO S/O SHANKAR RAO, RESIDENT OF VILLAGE
AMARUT, POLICE STATION SHERGHATI DISTRICT GAYA Petitioner
Versus

1. THE STATE OF BIHAR
 2. THE COMMISSION MAGADH PRAMANDAL, GAYA
 3. THE COLLECTOR, GAYA
 4. THE CO, SHERGHATI AT GAYA
 5. SHARAWAN CHAUDHARY SON OF KAULESHWARI CHAUDHARY,
RESIDENT OF VILLAGE AMARUT, POLICE STATION SHERGHATI
DISTRICT GAYA Respondents
- =====

Appearance :

For the Petitioner : Mr. T.N.Maitin, Sr. Advocate
Mr.R.K.Sinha, Advocate and
Mr. Ramadhar Singh, Advocate
For the Respondents : Mr. Mahboob Ashraf, AC to (SC-27)

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**CORAM: HONOURABLE MR. JUSTICE SAMARENDRA
PRATAP SINGH**
ORAL ORDER

8 02-07-2015 The petitioner is aggrieved by ex-parte order dated
9.1.1997, passed by the commissioner, Magadh Pramandal,
Gaya in Revision case no. 70 of 1995 as contained in Annexure
7.

The land in question belongs to old khata no. 122 (new
khata no. 104 old plot no.172 (new plot no. 272) and area 5
decimals of village Amrut Police Station Sherghati, district
Gaya. The petitioner is the vendee of the said plot having
purchased the same vide registered sale deed on 7.12.1973
from one Sarswati Devi @ Mitani Devi (expunged respondent
no.6 vide order dated 18.11.1999).

It would be necessary to notice the facts of the case in

detail.

Respondent no.5 filed a petition for issuance of Basgit purcha on the said plot in the year 1988-89. The CO, Sherghati allowed the application by ex-parte order dated 21.2.1989/24.2.1989. Being aggrieved, the petitioner filed a protest petition which was allowed in his favour by the CO, Sherghati vide order dated 7.4.1989. Now, being aggrieved respondent no.5 moved before the DCLR, Sherghatti. It is submitted by the petitioner that no positive direction was passed by the DCLR. A copy of the order of the DCLR is also not on record. It appears that the matter travelled before the Collector, Gaya who upheld the correction vide order dated 29.9.1995 (Annexure 6). Thereafter respondent no.5 moved the Commissioner, Magadh Division giving rise to Revision case no. 73 of 1990. The learned Commissioner while disposing of the revision on 9.1.1997 observed that the CO did not have any jurisdiction to correct his own order. Now, it was the turn of the petitioner to challenge order dated 9.1.1997 of the Commissioner, Gaya Division passed in Revision case no. 73 of 1990.

Counsel for the petitioner has assailed order of the Commissioner on the two grounds. He firstly submits that the

Commissioner under the Bihar Privileged Persons Homestead Tenancy Act, 1947 did not have any revisional jurisdiction against order passed by the authorities of the district. He next submits that no notice was give before deciding the issue of Purcha.

Having regard to the facts and circumstances of the case, I set aside order of the all the three authorities and remand the matter to the CO, Sherghatti, Gaya to decide the issue afresh after giving notice to all the concerned parties.

(Samarendra Pratap Singh, J)

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