

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.3062 of 2002**

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Abhoy Chand Bothra son of Late Manik Chand Bothra (Expunged vide order dated 7.8.2015 and substituted by his son)

Pramod Chand Bothra son of Late Abhoy Chand Bothra. Resodemt pf village- Chhatapur, Police Station Chhatapur, District- Supaul.

.... .... Petitioner/s

Versus

1. The State of Bihar
2. The District Collector, Supaul.
3. The Deputy Collector, Land Reforms, Tribeniganj,, Tribeniganj, District Supaul.
4. Akhtar Ali son of late Asgar Ali, resident of village + Police Station Chhatapur, District Supaul.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Chandra Bhusan Das  
Mr. M.S. Khan

For the Respondent No.1 to 3: Mr. Abbas Haider, SC-16  
Mr. Ranjay Kumar Singh, AC to SC-16

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**CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA**

ORAL JUDGMENT

**Date: 20-08-2015**

Heard learned counsel appearing on behalf of the petitioner and the learned Standing Counsel-16 appearing on behalf of the respondent no.1 to 3. However, none appears on behalf of the respondent no.4, though he has entered appearance through his counsel by filing a duly executed vakalatnama on his behalf.

2. The original petitioner- Abhoy Chand Bothra, who is now dead and has been substituted by his son, being aggrieved by the order dated 28.10.2000 (Annexure-2) passed in Miscellaneous Revenue Case No. 82 of 1995 and Miscellaneous Revenue Case No. 81 of 1995 by the respondent District Collector, Supaul, has filed the



present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of aforesaid order dated 28.10.2000 (Annexure-2), whereby the order dated 12.12.1994 (Annexure-1) passed in Case No. 1/1994-95 read with Case No. 4/95-1995 by the respondent D.C.L.R., Triveniganj in exercise of his powers under Sections 5, 6 and 7 of The Bihar Land Reforms Act, 1950 (In short “B.L.R. Act, 1950”), has been reversed, and the D.C.L.R., Tribeniganj has been directed to cancel the Jamabandi running in the name of the petitioner’s family with respect to the lands under dispute, fully detailed in paragraph-5 of the writ petition.

3. Learned counsel appearing on behalf of the petitioner submits that the impugned order dated 28.10.2000 (Annexure-2) passed by the respondent District Collector, Supaul is wholly without jurisdiction, as he, in exercise of his power under Section 8 of the B.L.R. Act, 1950 read with Rule 8 of The Bihar Land Reforms Rule, 1951 (In short “Rules, 1951”) could not have directed for cancellation of Jamabandi running in the name of petitioner in view of earlier order dated 12.12.1994 (Annexure-1) passed by the respondent D.C.L.R., Tribeniganj. It is further submitted that in the aforesaid Miscellaneous Revenue Case No. 82 of 1995 and 81 of 1995 reasonable opportunity of hearing was not given to the original writ petitioner, as notice was served bala-bala. Therefore, according to him, there has been violation of rules of natural justice. On these grounds, besides others, it is contended that the impugned order is not sustainable in law.

4. Au-contraires, learned Standing Counsel-16 has supported the impugned order. According to him, the petitioner or his ancestor is/was not the ex-intermediary under the meaning of the B.L.R. Act, 1950 with respect to the lands under dispute. Therefore, the



respondent D.C.L.R., Tribeniganj, by his order dated 12.12.1994 (Annexure-1), could not have fixed rent with respect to the lands in question in favour of original writ petitioner in exercise of his power under Section 6 of the B.L.R. Act, 1950. It is further submitted that the order dated 12.12.1994 (Annexure-1) passed by the respondent D.C.L.R., Tribeniganj is ex facie illegal and without jurisdiction. Therefore, the respondent District Collector has rightly directed for cancellation of Jamabandi running in the name of original writ petitioner with respect to the lands in question. It is pointed out that indisputably, the lands in question was originally belonging to Harawat Estate, yet before passing the final order dated 12.12.1994 (Annexure-1) the respondent D.C.L.R. had not given opportunity of hearing to all the necessary parties including the ex intermediary. It is contended that, in fact, the settlement of the land in question was cancelled by the Additional Collector, Saharsa in exercise of his powers under Section 4(h) of the B.L.R. Act, 1950 and, therefore, it vested in the State of Bihar. Hence, the respondent D.C.L.R. was not legally authorised to pass the order dated 12.12.1994 in favour of the original writ petitioner. On these grounds, besides others, it is pleaded that the writ petition is liable to be dismissed.

5. As noticed above, none appears on behalf of the respondent no.4, though notice was earlier issued to him and he has entered appearance through his counsel by filing a duly executed vakalatnama.

6. After having heard the parties and on consideration of the materials available on record, this Court is of the opinion that entire matters require re-consideration and fresh decision from the stage of original authority in terms of Sections 5, 6 and 7 of the B.L.R. Act, 1950. Sections 5, 6 and 7 of the B.L.R. Act, 1950 provide certain



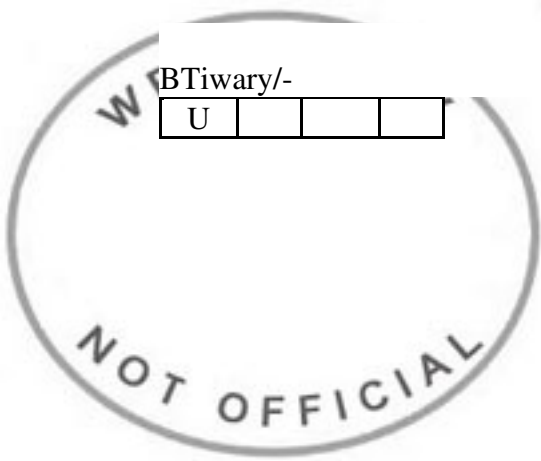
benefits to the ex-intermediary. Admittedly, the petitioner does not belong to the Harawat estate, yet the respondent D.C.L.R. without recording any finding in his order dated 12.12.1994 (Annexure-1), as to whether the original writ petitioner was an intermediary with respect to the lands in question, allowed his claim mechanically. Furthermore, before passing the aforesaid final order opportunity of hearing does not appear to have been given to all the concerned parties including the respondent no.4, who claims that his father was raiyat with respect to the lands in question. So far the order passed by the respondent District Collector is concerned, it appears that the petitioner was not given reasonable opportunity to defend his case, though it is recorded that the notices were validly served upon him.

7. For the reasons recorded above, the impugned order dated 28.10.2000 (Annexure-2) passed analogously in Miscellaneous Revenue Case No. 82 of 1995 and 81 of 1995 by the respondent District Collector, Supaul as also the order dated 12.12.1994 (Annexure-1) passed by the respondent D.C.L.R., Tribeniganj are hereby set aside and quashed. The entire matter is remitted back to the respondent D.C.L.R., Tribeniganj with a direction to consider the matter afresh and decide the claim of the petitioner vis-à-vis respondent no.4 as also the State after giving opportunity of hearing to all concerned. While passing fresh order he shall be obliged to take into consideration the earlier order(s) passed by the Additional Collector, Saharsa in exercise of his powers under Section 4(h) of the B.L.R. Act, 1950 as also the order passed by the Hon'ble Apex Court with respect to the lands in question.

8. The parties shall be at liberty to raise all the issues of facts and law, which may be available to them.

9. The writ petition stands allowed to the extent indicated

above.



**(Birendra Prasad Verma, J)**