

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1783 of 2015

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Birendra Kumar Ojha son of Late Ramchandra Oha resident Village Golabazar,
Sidhnath Ghat Buxar, district Buxar

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Revenue, Govt. of Bihar, Patna
2. The Chairman, Bihar Land Tribunal, Patna
3. The Commissioner, Patna Division, Patna.
4. The Deputy Collector, Land Reforms Buxar
5. the Circle Officer, Buxar
6. Md. Farukh Khan son of Late Gilanar Khan
7. Md. Izhar Khan, son of Md. Farukh Khan both are resident of Village Barki Sarimpura, P.S. Buxar, Industrial Area, Buxar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. T.N. Maitin, Sr. Advocate
Mr. Rajeev Kumar Sinha

For the Respondent/s : Mr. GP16- RAJESH SINGH
Mr. Bhaskar Shankar A.C. to G.P.16

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 03-02-2015

Heard Mr. T.N. Maitin counsel for the petitioner and G.P.16 for the State.

The petitioner assails the order dated 04.09.2014 passed by the Bihar Land Tribunal, Patna whereby the application filed by the private respondents challenging the order dated 23.10.2013 passed by the Divisional Commissioner (Annexure-8) was allowed.

The petitioner claims to have purchased the subject land in 2009 and thereafter got his name mutated. The private respondents also claim to have purchased the subject land from a different seller and instituted a proceeding for mutation which was allowed. When the petitioner became cognizant of the order passed in favour of the private respondents an appeal was



preferred thereagainst. The order of mutation passed in favour of the private respondents was set aside. Thereafter the petitioner approached the Deputy Collector, Land Reforms under the provisions of the Bihar Land Disputes Resolution Act, 2009 (for short 'the Act') for restoration of possession. Admittedly, the subject land was claimed to be purchased land/raiya land. The said application was considered and rejected vide order dated 21.02.2011 (Annexure-7). The order of the Deputy Collector, Land Reforms was appealed against by the petitioner before the respondent Divisional Commissioner who vide order dated 23.10.2013 (Annexure-8) set aside the order of the Deputy Collector, Land Reforms. The private respondents assailed the aforesaid order of the Divisional Commissioner (Annexure-8) before the Tribunal vide Land Dispute Case No. 75/11-12. After hearing the parties the same was allowed and the order passed by the Divisional Commissioner was set aside.

Mr. Maitin has assailed the order of the Tribunal on diverse counts. However, this much had been admitted that the suit land/subject land was not the settled land under any provision of the Statute. On his own showing the suit land/subject land was purchased in the year 2009. If that be the case then in view of the law laid down by a Division Bench of this Court in the case of **Maheshwar Mandal vs. State of Bihar (2014 (3) PLJR 281)** the competent authority under the Act would have no jurisdiction. This Court, in view of aforesaid, is not delving into the reasons which have been assigned by the Tribunal for allowing the application against which diverse submissions have been advanced by Mr. Maitin.

Regard being had to above this Court is satisfied that the writ application merits to be dismissed since the competent authority under the Act had no jurisdiction to entertain and take a decision on the grievance relating to

the purchased raiyati land of the petitioner.

It has been contended that the Tribunal has recorded certain findings in the impugned order which may prejudice the case of the petitioner in case he seeks remedy available to him in law. As I have taken a view that the Authority under the Act had no jurisdiction to entertain the complaint filed by the petitioner and the order(s) passed thereat by the Authority under the Act suffers from lack of jurisdiction, this Court observes that any finding/observation made in the orders dated 04.09.2014 (Annexure-9), 23.10.2013 (Annexure-8) and 21.02.2011 (Annexure-7) shall not prejudice the case of either the writ petitioner or the private respondents.

The writ application is disposed of.

(Kishore Kumar Mandal, J)

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