

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10992 of 2014

With
I.A. No.5450 of 2014

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Gopal Rai, S/o Late Shiv Prasad Rai, resident of village - Bindgawan, P.S. -
Doriganj, District Saran at Chapra.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Bhojpur, Ara.
3. The Sub-Divisional Officer, Sadar, Ara, Bhojpur.
4. The Circle Officer, Anchal Barahara, Bhojpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar Pandey
For the Respondent/s : Mr. U.S.S.Singh, GP-1
For the intervener : Mr. Uday Kumar

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

5 07-01-2015 Heard the parties.

The petitioner had questioned the public notice dated 27.6.2014 issued by the Circle Officer, Barahara, District-Bhojpur in the light of the order passed by the Sub-Divisional Magistrate, Sadar, Ara bearing Memo no. 1813 dated 26.6.2014 whereby the settlement in favour of the petitioner dated 23.6.2014 as contained in Annexure-2 to the writ petition has been cancelled and a fresh bid for the settlement of a piece of land which was attached under section 146(1) of the Code of Criminal Procedure bearing khata no.324, khesra nos.1253 to 1285 admeasuring 92 Bighas and 4 kathas in Mauza Bindgawan in the district of Bhojpur has been invited.



The short submission made by learned counsel appearing for the petitioner is that pursuant to an order dated 3.4.2014 passed by the Sub-Divisional Magistrate, Sadar Ara, that public notice were issued on 6.6.2014, copy whereof is placed at Annexures-4 to the writ petition inviting offers for settlement of the land in question and in which 7 persons participated and of which the petitioner was found to be most suitable and awarded settlement vide order bearing Memo no.220 dated 23.6.2014 placed at Annexure-2 upon deposit of the bid amount of Rs.1,11,551/- a copy of which is placed at Annexure-6.

It is the complaint of the petitioner that following the complaint made by one Ram Krishna Singh that the matter was enquired into by the Sub-Divisional Magistrate on the same day, i.e. on 26.6.2014 and by the order passed on the same day, the settlement made in favour of the petitioner was cancelled without giving him an opportunity of hearing. He thus submits that the order adversely affecting him, is also against the principles of natural justice and thus is not sustainable.

Although learned counsel appearing on behalf of the complainant/intervener and the learned counsel for the State have tried to justify the order of cancellation passed by the Sub-



Divisional Magistrate, Sadar Ara, dated 26.6.2014 which has been placed on record vide Annexure-B to the counter affidavit, inter alia, on grounds that the settlement at Rs.1,11,551/- was far below the settlement made in the previous year at Rs.3,11,000/- and it is in this view of the matter that the settlement has been cancelled but in the opinion of this Court since the order was adversely affecting the right vested in the petitioner it was required to be passed after due notice to the petitioner.

The order of the Sub-Divisional Magistrate, Sadar Ara, dated 26.6.2014 manifests that it is simply on the complaint made by the intervener Ram Krishna Singh that the order has been passed without hearing the petitioner. The order is clearly in violation of principles of natural justice and thus cannot be upheld and as a consequence the order dated 26.6.2014 passed by the Sub-Divisional Magistrate, Sadar Ara as contained in Annexure-B as well as the public notice dated 27.6.2014 issued by the Circle Officer pursuant thereto placed at Annexure-1 cannot be upheld and are accordingly set aside. The matter is remitted back to the Sub-Divisional Magistrate, Sadar, Ara, District- Bhojpur to pass a fresh order in accordance with law and after giving opportunity of hearing to the petitioner as well as the complainant. The petitioner would appear before the Sub-

Divisional Magistrate, Sadar Ara, along with a copy of this order on 14.1.2015 at 11.00A.M. when the Sub-Divisional Magistrate, Sadar Ara would fix a date of hearing in the matter and pass a fresh order after giving opportunity of hearing to the parties.

The writ petition is allowed with the directions aforementioned. The interlocutory application stands disposed of.

(Jyoti Saran, J)

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