

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1057 of 2015

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1. Dr. Chandra Deo Singh S/o Late Mahadev Singh, Resident of Village -
Ramchandrapur, P.S. - Maheshkhunt (Gogari), District - Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Khagaria.
3. The Additional Collector, Khagaria.
4. The District Fisheries Officer - cum - Chief Executive Officer, Khagaria.
5. Subodh Singh S/o Not Known to the petitioner Secretary of Fisherman Co-
operative Society of Gogari Block, District - Khagaria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Viveka NandSingh

For the Respondent/s : Mr. GP27- Purnendu Singh
Mr. Dronacharya

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 20-02-2015

Heard Mr. Vivekanand Singh for the petitioner, Mr.

Dronacharya for respondent no. 5 and A.C. to G.P. 27 for the State.

Petitioner claims to be the owner in possession of the land having his name mutated since last several years. On the application filed by the respondent no. 5 a proceeding for cancellation of jamabandi was registered in the Court of respondent Collector vide Jamabandi Cancellation Case No. 55 of 2013-14. Upon hearing both sides, the Collector vide order dated 24.6.2014 transferred the case to the file of the Additional Collector after holding that under Bihar Land Mutation Act, 2011 (for short “the Act”), the Additional Collector has requisite jurisdiction to consider such grievance. On



such transfer, the Additional Collector admitted the case for hearing and by order dated 27.09.2014 directed both the parties to appear before him alongwith their documents of title and possession enabling him to adjudicate on the rival claims. Aggrieved thereby, the present writ petition has been filed. Indisputably, the matter is still pending consideration before the Additional Collector where the submissions raised herein can be raised and appreciated by the said Authority.

Mr. Singh, Counsel for the petitioner has submitted that in cases where dispute which involves question of title, right and possession specially when long standing possession is not under dispute, such cancellation of jamabandi can only be made upon filing of the suit by the aggrieved party. The summary proceeding by any Revenue Officer of the State would not be adequate.

Counsel for the respondents have, however, supported the impugned order contending that the order passed by the Collector transferring the case to the file of Additional Collector is not under challenge. The Additional Collector has only admitted the case and parties have been directed to make their respective submissions. In the submission of the Counsel for the respondent everything is broad open before the Additional Collector. In view of the aforesaid, this Court should not exercise the extraordinary and discretionary writ jurisdiction.



Having considered the rival submissions, in my view, the order passed by the Collector having not been challenged, the matter has to be now examined by the Additional Collector who has the requisite jurisdiction under Section 9 of the Act. Section 9 of the Act empowers the Additional Collector to even proceed *suo motu*. The application of any aggrieved person is not *sine qua non*.

In view of the aforesaid, this Court declines to interfere the order passed which has been impugned in the present application giving the parties liberty to raise all submissions as has been raised before this Court before the Additional Collector which, if raised, I am sure, will be considered and decided in accordance with law.

Counsel for the petitioner has highlighted before this Court that pendency of this proceeding has resulted in enormous difficulty to the petitioner since on the strength of pendency of the application, the respondents are trying to disturb fishing right of the petitioner. Taking into account the aforesaid fact, this Court would require the Additional Collector to dispose of the proceeding which is pending before him expeditiously preferably within three months from the date of appearance of the petitioner as well as the private respondent before him along with a copy of the present order. Be it noted that both the parties have undertaken before this Court to appear before the Additional Collector in the said proceeding along with the

present order within four weeks.

The writ application is disposed of.

Pankaj/-

(Kishore Kumar Mandal, J)

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