

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1342 of 2015

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Shamsul Hoda son of Md. Rasool Hoda, Resident of Mohalla- Purana Quilla, P.S. -Siwan Town, District- Siwan, Bihar.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Departmental Land Reforms, Bihar , Patna.
2. The Collector, Siwan.
3. The Land Reforms Deputy Collector , Siwan.
4. The Superintendent of Police, Siwan.
5. Inspector of Police , Siwan Town Police Station.
6. The Circle Officer, Siwan.
7. The Executive Officer, Nagar Parishad, Siwan.
8. Tausif Ahmad, S/o Late Kabir Ahmad.
9. Tarique Zafar Ghani, S/o Zafar Ahmad, Ghani.
10. Shahzad Ahmad S/o Late Subhan Ahmad.

Sl. No. 8 to 10, all residents of Mohalla Purani Killa Siwan, P.S. Siwan Nagar Town, District- Siwan

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Y.C. Verma, Sr. Adv.

For the Respondent/s : Mr. Pratik Kumar Sinha, AC to GA-XII

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 10-08-2015 Heard the parties.

The petitioner has filed the present writ petition under Article 226 of the Constitution of India for quashing the entire proceeding of Case No. 10/202 of 2014-15, initiated under the provisions of Bihar Land Dispute Resolution Act, 2009 (In shot “Act 2009”) pending before the respondent D.C.L.R., Siwan, the competent authority under the meaning of Act, 2009.

Learned Senior counsel appearing on behalf of the petitioner raises a grievance that the aforesaid case was admitted on 16.04.2014 and order of status quo for the lands under dispute

was passed and since then the matter is pending before the competent authority and final order has not been passed in the aforesaid case. He also submits that in view of nature of dispute between the parties, the competent authority ought not to have admitted the aforesaid case for deciding the aforesaid dispute between the parties under the provisions of Act, 2009.

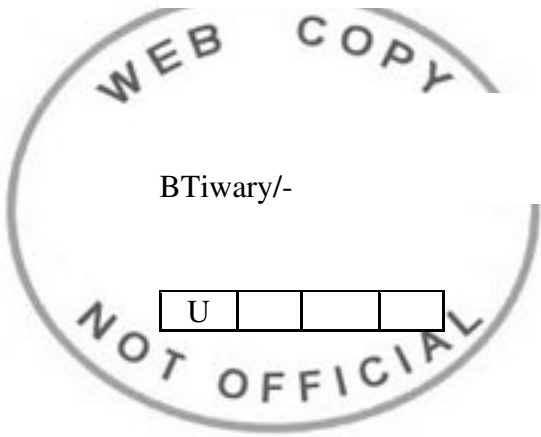
It is well settled that the question of jurisdiction can be raised at the very threshold before the authority, who is seisin of the matter. If the petitioner is of the view that dispute raised on behalf of the private respondents cannot be adjudicated upon by the competent authority under the provisions of Act, 2009, then he ought to have filed such objection and ought to have got an order on that issue, but that has not been done in the present case. Apparently, the final order has not been passed in that case.

So far passing of order of status quo is concerned that cannot be termed as illegal. An interim order is passed depending on the facts of a particular case. However, the competent authority ought to have disposed of that case at an early date under the provisions of Act, 2009.

For the reasons recorded above, the writ petition is dismissed. However, the petitioner shall be at liberty to approach the competent authority, respondent D.C.L.R., Siwan for early disposal of that case.

If the petitioner appears before the respondent D.C.L.R. Siwan and files any petition for early disposal of that proceeding, then the competent authority shall make all endeavours to dispose of that proceeding expeditiously after giving an opportunity of hearing to all concerned and after following the procedure prescribed under the Act, 2009 and the rules made there under.

The petitioner shall be at liberty to raise all the issues of facts and law in that proceeding, which may be available to him.



(Birendra Prasad Verma, J)