

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11804 of 2015

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Bhola Das, S/o Late Gopi Harijan, Resident of Village & P.O. - Badhauna,
P.S. - Barahat, District - Banka (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Director, Consolidation, Bihar, Patna.
3. The Collector of the District, Banka.
4. The Additional Collector, Banka.
5. Deputy Collector, Land Reforms, Banka.
6. The Circle Officer, Barahat, District - Banka.
7. The District Fishery Officer-cum-Chief Executive Officer, Banka.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Malendu

For the Respondent/s : Mr. Sanjeev Kumar, AC to SC-1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 27-08-2015 Heard the parties.

The petitioner is aggrieved by the order dated 19.06.2015 (Annexure-10) passed in Misc.Case No.2 of 2012-13 by the respondent Additional Collector, Banka, whereby the Jamabandi running in the name of the mother of the petitioner with respect to the lands in question, detailed in para 4 of the writ petition, has been cancelled and the respondent D.C.L.R., Banka was directed to proceed further.

Learned counsel appearing on behalf of the petitioner, by referring to the document, as contained in Annexure-3, submits that in the consolidation proceeding lands in question was recorded in the name of Smt.Munari Devi, the mother of the petitioner and, after her death, the petitioner inherited that property and accordingly Jamabandi was created. However, before passing the impugned order, neither any show cause notice was issued by

the Additional Collector, Banka nor any opportunity of hearing was given to him and direction has been issued for cancellation of Jamabandi.

Learned AC to SC-1 appearing on behalf of the respondents submits that before the respondent Anchal Adhikari, Barahat the petitioner had entered appearance and had prayed for sometime for producing some documents, but, despite opportunity given, he did not produce the relevant documents. Therefore, the impugned final order was passed. However, he has not been able to show that the respondent Additional Collector, Banka had given any opportunity of hearing to the petitioner before passing the impugned order.

After having heard the parties, this Court is of the opinion that this matter requires re-consideration and fresh decision by the respondent Additional Collector, Banka on two counts: firstly, the impugned order is cryptic and non-speaking one; and secondly, the claim of the petitioner with respect to the lands in question has not been taken into consideration after giving an opportunity of hearing to him.

For the reasons recorded above, the impugned order dated 19.06.2015 (Annexure-10) passed in Misc.Case No.2 of 2012-13 is hereby set aside and quashed, and the matter is remitted back to the respondent Additional Collector, Banka with a direction to decide the claim of the petitioner regarding the lands in question afresh by a reasoned and speaking order after giving an opportunity of hearing to all concerned.

In order to facilitate early disposal of the dispute, the petitioner is hereby directed to appear before the respondent Additional Collector, Banka on 28th September, 2015 with a

certified copy of the present order as also with all relevant documents in support of his claim over the lands in question, whereafter the respondent Additional Collector, Banka shall pass a fresh order in accordance with law after giving an opportunity of hearing to all concerned.

It is clarified that, if the petitioner does not appear on the date fixed i.e. 28th September, 2015 in the manner indicated above, then it shall be construed that the present writ petition stood rejected on account of non-compliance of the Court's order and in that case the authorities shall be at liberty to proceed further as per the direction given in the aforesaid order dated 19.06.2015.

The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

Arvind/-

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