

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8768 of 2007

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Mauje Lal Sahani, son of Jivan Sahani, resident of village- Pakari, Police
Station- Kanti, District- Muzaffarpur

.... Petitioner

Versus

1. The State of Bihar
2. Commissioner, Tirhut Division, Muzaffarpur
3. Additional Collector, Muzaffarpur
4. Land Reforms Deputy Collector (L.R.D.C.), Muzaffarpur
5. Anchal Adhikari, Kanti Block, Kanti, Muzaffarpur
6. Ram Swarup Sahni
7. Shankar Sahni,

Both sons of Bhuneshwar Sahni, residents of village- Pakri,
Police Station-Kanti, District- Muzaffarpur

.... Respondents

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With

Civil Writ Jurisdiction Case No.19029 of 2008

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Mauzi Lal Sahni, son of Jivan Sahni, resident of village- Pakari, Police
Station- Kanti, District- Muzaffarpur

.... Petitioner

Versus

1. The State of Bihar
2. Commissioner, Tirhut Division, Muzaffarpur
3. Additional Collector, Muzaffarpur
4. Land Reforms Deputy Collector (L.R.D.C.), Muzaffarpur
5. Anchal Adhikari, Kanti Block, Kanti, Muzaffarpur
6. Anup Sah
7. Ram Swaroop Sahni

Both sons of Late Thithar Sah , residents of village- Pakri, Police
Station-Kanti, District- Muzaffarpur

.... Respondents

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With

Civil Writ Jurisdiction Case No.16039 of 2008

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Mauje Lal Sahani, son of Jiwan Sahani, resident of village- Pakari, Police
Station- Kanti, District- Muzaffarpur

.... Petitioner

Versus

1. The State of Bihar
2. Commissioner, Tirhut Division, Muzaffarpur
3. Additional Collector, Muzaffarpur
4. Land Reforms Deputy Collector (L.R.D.C.), Muzaffarpur
5. Anchal Adhikari, Kanti Block, Kanti, Muzaffarpur
6. Babu Lal Sahni, son of Chanem Sahni
7. Deep Lal Sahni, son of Chanem Sahni

Both residents of village- Pakri, Police Station-Kanti, District-

Muzaffarpur

.... Respondents

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Appearance :

For the petitioner: Sri Pramod Kumar Singh, Adv.

For the State : Ms. Divya Verma, AC to AAG-3

For the private Respondents: Sri S.S.P.Yadav,

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

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11 29-04-2015

Since in all the three writ petitions, an order dated 11.04.2007 passed by the Commissioner, Tirhut Division, Muzaffarpur is under challenged, whereby three revision petitions i.e. Revision Case Nos.112/84-85, 113/84-85, and 114/84-85 were disposed of by common order, all the aforesaid three writ petitions were heard together and are being disposed of by common order.

Heard Sri Pramod Kumar Singh, learned counsel for the petitioner, Miss. Divya Verma, learned AC to AAG-3 as well as Sri S.S.P.Yadav, learned counsel, who has appeared on behalf of private Respondents.

In present writ petitions, the order of the Commissioner, Tirhut Division has been challenged on the ground that the Commissioner was not having any jurisdiction to entertain revision against the order passed by the Addl. Collector in mutation revision. It was submitted that on this issue a Full Bench of this Court, in a case reported in 1986 PLJR 1057; Ram Chandra



Ram Vs. Commissioner, North Chhotanagpur, has already held that second revision is not permissible and, as such, the Commissioner was not having jurisdiction to entertain revision petition against the order passed by the Additional Collector exercising power under Section 17 of the Bihar Tenants Holdings (Maintenance of Records) Act, 1973 (hereinafter referred to as the “Act, 1973”). It has further been submitted that subsequently by amendment Act, the provision i.e. Section 17 of the Act, which was earlier in the Act authorizing the Commissioner to entertain second revision, was already repealed. The said provision was repealed in 1983 itself. It has been argued that the Commissioner was denuded with the power to entertain the revision in view of deletion of Section 17 from the Act. Accordingly, it has been argued that the order impugned is liable to be set aside.

Learned State Counsel and learned counsel for the private Respondents have opposed the prayer of the petitioner. They have argued that the order of the Commissioner has simply been passed to set aside the order, which was passed by an unauthorized person. It has been argued that the Addl. Collector was not having any jurisdiction to entertain a revision. By way of referring to Section 16 of the Act, it has been argued that the power of revision was vested only with the Collector of the



District, not to Addl. Collector. Of course, under provision of Section 2 (c) of the Act, 1973, the Addl. Collector was also included as Collector, but since Section 16 of the Act, which prescribes regarding revisional power, categorically states that such power can be exercised by the Collector of the District, then in that event no authority other the Collector of the District was authorized to entertain a revision. It was submitted that the order of the Addl. Collector was contrary to the provisions contained in the Act as well as Judgment of this Court reported in 1997 (2) PLJR 404 (Most. Babuni Devi Vs. The State of Bihar & Ors.). It was argued that the position on this very point has been clarified by this Court in the aforesaid case and, as such, the Addl. Collector has unauthorisedly entertained the revision and since the revisional order passed by the Addl. Collector was without jurisdiction, same was unsettled by the Divisional Commissioner vide impugned orders and, as such, it was submitted that the order of the Addl. Collector is without jurisdiction.

In the present writ petitions, the petitioner has not assailed the order of the Addl. Collector and in absence of any pleading in the writ petition, it would be difficult for this Court to adjudicate on this issue. Without recording any opinion on the correctness of the order of the Addl. Collector, the Court is of the

opinion that since the order, which has been assailed in the present writ petitions, is without jurisdiction, certainly said order can be interfered with. Accordingly, the order impugned i.e. order dated 11.04.2007 passed by the Commissioner, Tirhut Division, Muzaffarpur in Revision Case No.112 to 114 of 1984-85 is hereby set aside.

It is made clear that this Court has not recorded any opinion either on the merit of the case or on the affect of the order of the Addl. Collector. It would be open to private Respondents to take appropriate remedy if the private Respondents feel aggrieved with the order of the Addl. Collector.

With above observation and direction, the writ petition stands allowed.

(Rakesh Kumar, J)

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