

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.836 of 2014

=====

Surendra Mohan Sinha Son Of Late Raghupati Sahay Resident Of - Phulwaria - 3, P.S. - Phulwaria, District - Begusarai, Duly Constituted Attorney for Dr. Siya Saran Prasad, Son Of Late Maithili Saran Prasad, Resident Of Village - Kiul, P.S. - Teghra, District - Begusarai, Under Registered Power Of Attorney Dated 13-12-1991 executed By aforestated Dr. Siya Saran Prasad

.... Petitioner/s

Versus

1. The State Of Bihar through Collector, Begusarai
2. The Circle Officer, Teghra, Begusarai
3. Rajshav - Karamchari, Halka - 03, Teghra Prakhand, District - Begusarai
4. Smt. Usha Singh Wife Of Sri Umesh Singh Resident Of Phulwaria - 3, P.S. - Phulwaria, District - Begusarai, Former Member, Zila Parishad, Begusarai
5. Sri Umesh Singh Son Of Late Bishwanath Singh Resident Of Phulwaria - 3 , P.S. - Phulwaria, District - Begusarai

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. PRITISH KUMAR LAL

For the Respondent/s : Mr. ANJANI KUMAR

=====

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 20-02-2015

Heard Mr. Lal for the petitioner and Mr. Verma for private respondents and counsel for the State.

A counter affidavit has been filed on behalf of respondent no.2.

The petitioner holds power of attorney on behalf of Dr. Siya Saran Prasad and has filed the present writ application for quashing the proceeding of Misc. Case No. 05 of 2007-08 which is pending before the respondent Circle Officer, Begusarai including the notice dated 23.01.2008 calling upon the land holder to show cause as to why appropriate recommendation be not made for cancellation of Jamabandi running in the name of the land holder since in the records of right the subject land appertaining to khata nos. 1482,533, khesra nos. 2539 2431 and 2855 stood recorded as Gai Mazarua Malik.



According to the petitioner, the subject land was recorded in the khatiyani as Gair Mazrui Malik with description as Garha but was settled in favour of the ancestor of the landholder in 1941 under a written settlement/Hukumnama on payment of Nazrana whereafter the subject land came in possession and during vesting of the Zamindari rights the ex landlord filed return in the name of the settlee and accordingly the settlee after vesting was mutated in respect of subject land vide Jamabandi no. 163 and was paying rent to the State. Respondent No. 4 made a wrong complaint before the respondent Circle Officer that the subject land was Gair Mazrui Aam and the petitioner was laying false claim thereover which gave rise to Misc. Case No. 05/2007-8. On notice issued in the said proceeding the petitioner appeared and filed his objection enclosing therewith the documents showing continuous possession of the landholder over the land since the date of vesting. The Circle Officer heard the argument but did not pass any order and in this way the proceeding is being protracted till date leading to filing of the present writ application.

A counter affidavit has been filed on behalf of the State in which possession of the landholder over the land in question has not been disputed. It has, however, been contended that an enquiry can always be made in respect of the land which stands recorded as Gair Mazrui Aam/Malik. The Circle Officer being the Collector under the Act is empowered to make such an enquiry under section 4 (h) of the Bihar Land Reforms Act.

The contention of the petitioner is that considering the written document of settlement and the mutation etc. which continued for more than four decades the authority can institute a suit for alteration in the revenue records. However even if the State initiated a proceeding under the Land Reforms Act the same must reach a finality. The same cannot be allowed to hang in balance

continuously and perennially.

The counsel for the State justifying the proceeding has not been able to explain the circumstances under which the proceeding remained pending for nearly seven years.

Having considered the submission of the parties and taking into account the relevant facts manifesting from the record it appear to this Court that the principal grievance of the petitioner is against such continuance of the proceeding for a long time without the result thereof. The respondent-State issued the notice which has already been replied to by the petitioner as is evident from the record. Continuance of such proceeding for such a long time is neither in the interest of the State nor the citizens. The ends of justice, in my view, would be subserved if the writ application is disposed of by the following order which I hereby do:-

Let the respondent Circle Officer consider and decide the said proceeding being Misc. Case No. 05/ of 2007-08 in accordance with law within six weeks from the date of receipt/production of a copy of this order before the said respondent failing which the said proceeding shall stand closed.

(Kishore Kumar Mandal, J)

HR/-

U			
---	--	--	--