

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6371 of 2011

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Renu Devi wife of Sri Upendra Pathak, resident of Village- Marar,
Anchal/P.S- Rahika, District- Madhubani. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary,
Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Collector, Madhubani.
3. The Additional Collector, Madhubani
4. The Deputy Collector, Land Reforms, Sadar, Madhubani.
5. The Circle Officer, Rahika Anchal, District- Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gyanand Roy, Advocate

For the Respondent/s : Mr. Sanjay Prakash Verma, AC to GA 1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 24-08-2015

Heard the parties.

2. The petitioner is aggrieved by order dated 19.05.2009 (Annexure-1) passed in Jamabandi Cancellation Case No. 01 of 2007-2008 by the respondent DCLR, Sadar, Madhubani whereby in purported exercise of his powers under Section 4 (h) of the Bihar Land Reforms Act, 1950 (in short, "BLR Act, 1950") he has cancelled jamabandi No. 1066 standing in the name of the petitioner with respect to lands in question on the ground that the land in question is gairmazarua khas land and it was never settled to any person including the petitioner. It has further been recorded that paper of settlement produced by the petitioner is doubtful.

3. Learned counsel appearing on behalf of the petitioner by referring to certain documents submits that the findings recorded in the impugned order are not correct and settlement was made in favour of the mother of the petitioner long long ago vide Annexure-2.

4. Learned counsel appearing on behalf of the respondents by filing a counter affidavit on behalf of the respondent no. 2 to 5 has opposed the prayer made on behalf of

the petitioner.

5. After having heard the parties, this Court finds that against the impugned order the petitioner has an alternative and efficacious remedy by way of appeal as provided under Section 4(h), first proviso, of the BLR Act, 1950 itself. Admittedly, the petitioner has not exhausted the alternative remedy of appeal.

6. This Court is of the considered opinion that issues of facts must be raised by the parties and conclusively decided at the first instance by the statutory authorities, and only thereafter the powers of judicial review under Article 226 of the Constitution of India may be invoked.

7. In above view of the matter, the writ petition is disposed of with a liberty to the petitioner to file an appeal before the prescribed authority under Section 4 (h), first proviso, of the BLR Act, 1950.

8. If such an appeal is filed on behalf of the petitioner within a period of four weeks from today with a certified copy of the present order and it is found that it has become barred by limitation and if a petition is filed on behalf of the petitioner for condonation of such delay, then the prescribed appellate authority shall take into consideration that on a bona fide legal advice, the present writ petition was filed on 07.04.2011 and that remained pending before this Court till date.

9. The petitioner shall be at liberty to raise all the issues of facts and law with respect to lands in question before the prescribed appellate authority, which may be available to her.

(Birendra Prasad Verma, J)

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