

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17951 of 2011

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Bipin Kumar Singh , son of Late Mohit Singh , resident of Kunjouri, P.S.-
Alam Nagar, District- Madhepura

.... Petitioner/s

Versus

1. The State Of Bihar
 2. The Principal Secretary Revenue And Land Reforms, Government Of Bihar
 3. The District Collector, Madhepura
 4. The Circle Officer, Alam Nagar, District- Madhepura
 5. Baidyanath Mukhiya
 6. Jago Mukhiya
 7. Kedar Mukhiya
- All sons of Bhado Mukhiya
All resident of Village- Kunjouri, P.S.- Alam Nagar, District- Madhepura

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ganesh Prasad Singh
For the Respondent/s : Dr. Sanjay Kumar Singh
AC to GP 28

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

4 08-07-2015 Heard learned counsel for the petitioner, learned AC to

GP No. 28 as well as Dr. Sanjay Kumar Singh, learned counsel,

who has appeared on behalf of the respondent no. 5 to 7.

The petitioner invoking writ jurisdiction of this court under Article 226 of the Constitution of India, has prayed for quashing of an order dated 14.6.2010 passed by the Collector in Basgit Parcha Case No. 03 of 2009, whereby, the case preferred by the petitioner i.e. Basgit Parcha Case No. 03 of 2009 was dismissed due to non -prosecution. The petitioner has further

prayed for quashing of the order dated 17.1.2011 passed by the learned Collector, whereby, petition filed for restoring the Basgit Parcha Case No. 03 of 2009 to its original record was also rejected.

Learned counsel for the petitioner submits that due to bona fide reason the petitioner was restrained to appear in the case on the date fixed. Learned counsel for the petitioner by way of referring to Annexure -4 Series to the writ petition submits that due to serious ailment he remained absent on few dates and as such, the case stood dismissed by the learned Collector by its order dated 14.6.2010. He submits that after noticing regarding the rejection of the case due to non-prosecution, petitioner immediately approached the Collector for restoring the case to its original record along with medical certificates, but that too, was not entertained and the same was rejected. It has been argued that in respect of Khatiyani land of the petitioner, Parcha under the provisions of Bihar Privileged Persons Homestead Tenancy Act, 1947 was issued in favour of the respondent no. 5 to 7 and immediately after noticing regarding the issuance of Parcha the petitioner approached the Collector for cancelling the Parcha, however, without deciding the case on merit, the case stood dismissed due to non-prosecution.

Learned counsel for the State as well as learned counsel for the private respondents have opposed the prayer of the petitioner, however, the court considers that for the ends of justice it is desirable to pass an order for restoring Basgit Parcha Case No. 03 of 2009 to its original record.

Learned Collector is required to examine the case on its merit and pass appropriate order in accordance with law after hearing the parties.

It goes without saying that on the date fixed by the Collector, the petitioner shall appear and render full assistance to the court.

The writ petition stands allowed.

(Rakesh Kumar, J)

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