

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20822 of 2013

With
Interlocutory Application No. 5392 of 2014

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Deo Sahay Rai son of Late Chuhai Rai (expunged vide order dated 05.08.2014 and substituted by following heirs and legal representatives)

1.(A) Mangal Rai son of Late Deo Sahai Rai, resident of Mohalla - Naya Tola, P.S. Danapur, District - Patna

1 (B). Doman Rai son of Late Deo Sahai Rai, resident of Mohalla - Naya Tola, P.S. Danapur, District - Patna

2. Ram Nath Rai son of Late Nagina Rai, resident of Mohalla - Naya Tola, P.S. Danapur, District - Patna

.... Petitioner/s

Versus

1. The State of Bihar

2. The Collector Of District - Patna

3. The Deputy Collector, Land Reforms, Patna

4. The Circle Officer, Danapur, Circle, Patna

5. Shambhu Nath @ Shambhu Rai S/o Name not known C/o Circle Officer, Danapur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Baidyanath Prasad, Advocate

For the Respondent Nos. 1 to 4 : Mr. Sanjay Pandey, GP 21

Mr.Nishant Kumar Jha, AC to GP 21

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 17-12-2015

Heard the parties.

Originally, the petitioners had filed the present writ petition seeking a direction to the respondents for issuance of rent receipts in their favour with respect to the lands claimed by them, which have been mentioned in paragraph 1 of the writ petition itself. Subsequently, I.A.No. 5392 of 2014 has been filed on behalf of the petitioners seeking amendment in the writ petition and seeking permission of this Court to assail the validity and correctness of the order dated 04.03.2008/12.03.2008 passed in Mutation Case No. 389/1/ of 2007-2008 as also order dated 15.04.2008 passed by the respondent Anchal Adhikari, Danapur,

which have been brought on record as Annexures-8 and 9 respectively to the aforesaid Interlocutory Application and have also been annexed as Annexure-A to the counter affidavit filed on behalf of the respondent nos. 2 and 4.

Learned counsel appearing on behalf of the petitioners submits that initially the lands in question were mutated in favour of the petitioners, but subsequently, by the impugned orders, the respondent Anchal Adhikari, Danapur has cancelled the Jamabandi standing in the name of the petitioners. According to him, the orders passed by the Anchal Adhikari are without jurisdiction and therefore, are liable to be set aside.

Learned State counsel appearing on behalf of the official respondents, on the other hand, by referring to the averments made in the counter affidavit filed on behalf of the respondent nos. 2 and 4 submits that the claims raised on behalf of the petitioners are based on disputed question of facts. He further submits that the orders impugned are appealable; therefore, according to him, the writ petition is liable to be dismissed on that ground alone.

The present matter arises out of a proceeding under the Mutation Law. Admittedly, the impugned orders passed by the Anchal Adhikari are appealable before the prescribed appellate authority, but the petitioners, without exhausting the alternative statutory remedies available to them, have straight away come to this Court by filing the present writ petition under Article 226 of the Constitution of India.

It is well settled that issues of facts must be raised by the parties and conclusively decided by the statutory authorities, at the first instance, and only thereafter, the powers of judicial

review of the High Court under Article 226 of the Constitution of India may be invoked by the aggrieved person.

In above view of the matter, the present writ petition is dismissed, but liberty is granted to the petitioners to avail of all the statutory alternative remedies available to them for redressal of their valid grievances with respect to the lands in question as also with respect to the orders impugned in I.A. 5392 of 2014. I.A.No. 5392 of 2014 also stands, accordingly, disposed of.

(Birendra Prasad Verma, J)

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