

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7946 of 2013

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1. Jale Prakhand Matasyajivi Sahyog Samiti Ltd. Nagardih through its Secretary Bhadai Sahni
2. Bhadai Sahni S/O Late Jagdish Sahni R/O Vill.- Nagardih, P.S.- Jale, Dist.- Darbhanga

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Co-Operative Department, Bihar, Patna
2. The District Co-Operative Officer, Darbhanga
3. The District Fisheries Officer, Darbhanga
4. Teju Sahni S/O Late Ram Phal Sahni R/O Vill.- Tataila, P.S.- Kamtaul, Dist.- Darbhanga

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pashupati Prasad Sinha, Adv.

For the Respondent/s : Mr. Sanjeet Kumar Singh, A.C. to AAG 10

For the respondent no.4 : Mr. Rakesh Kumar Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 27-08-2015 Heard Mr. Pashupati Prasad Sinha, learned counsel for the petitioners, learned counsel for the State and Mr. Rakesh Kumar Jha, learned counsel for the private respondent.

The petitioners are aggrieved by the order dated 5.1.2013 passed by the respondent No.2, the District Cooperative Officer, Darbhanga in Case No. 9 of 2012 whereby in exercise of power vested under Section 48 of the Bihar Cooperative Societies Act, 1935, the District Cooperative Officer has issued directions for settlement of the Sairat in favour of the private respondent.

A very short issue has been raised by Mr. Sinha relying

upon judgment of this Court in a case arising out of **C.W.J.C.No.909 of 2013 (Sunil Sahni & Ors. Vs. State of Bihar & Ors.)** to submit that in view of the clear bar provided under Section 16 of the Bihar Jalkar Management Act, 2006 (hereinafter referred to as 'the Act'), the jurisdiction of the Registrar, Cooperative Society and the civil court as well as revenue court stands ousted to interfere with any dispute concerning settlement of jalkars.

The statutory provisions so interpreted by this Court in the case of **Sunil Sahni** (supra) would leave no room for confusion that the order passed by the District Cooperative Officer dated 5.01.2013 in Case No. 9 of 2012 is clearly in excess of jurisdiction and in teeth of the bar provided under Section 16 of 'the Act' and for the same reasons the order is set aside.

The writ petition is allowed. This order however, would not preclude the private respondent to raise his grievance before the authority concerned under 'the Act' and which shall be considered and disposed of on its own merits without being prejudiced by the order passed in the present proceedings.

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(Jyoti Saran, J)