

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 16727 of 2008

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Bachcha Singh, Son of Late Ram Briksha Singh, resident of Village –
Mohammadpur Balua Tola, P.O. Kala Dumra, P.S. G.B. Nagar, District – Siwan.
..... Petitioner

Versus

1. The State of Bihar, through the Commissioner, Saran Division, Saran.
2. The District Magistrate-cum-Collector of the District, Siwan.
3. The Additional Collector, Siwan.
4. The Deputy Collector, Land Reforms, Maharajganj, Siwan.
5. The Subdivisional Officer, Maharajganj, Siwan.
6. The Circle Officer, Block Goriyakothi, District – Siwan.

..... Respondents

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Appearance :

For the Petitioner/s : Mr. Krishna Kant Singh
For the Respondent/s : AC to SC-9

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 31-03-2015

Heard Sri Krishna Kant Singh, learned counsel for the
petitioner and learned A.C. to Standing Counsel – 9.

The petitioner, invoking writ jurisdiction of this Court
under Article 226 of the Constitution of India, has approached this
Court by filing the present petition on 19-11-2008, with a prayer to
direct the respondents for fixation of rent with respect to the land of
the petitioner as mentioned in **Annexure ‘1’** to the writ petition by
giving effect to order dated 06-02-1999 passed in Rent Fixation Case
No. 358 of 1996-97. By the said order, revision filed by the State was
dismissed and order dated 15-10-1996 passed in Appeal No. 184 of
1996-97 was affirmed and direction was issued to fix the rent of the
land.



Short fact of the case is that the petitioner, as disclosed in the writ petition, had long back filed a petition claiming as Intermediary Zamindari over certain portion of the land and he claimed that he was in possession over the land. Accordingly, the Rent Fixation Case No. 10 of 1993-94 was registered. Subsequently, the Circle Officer, Goriyakothi, Siwan recommended the matter for fixation of rent and recommendation was made to Deputy Collector Land Reforms, Maharajganj (in short "D.C.L.R."), vide order dated 18-09-1993. However, subsequently the record was returned by the D.C.L.R., Maharajganj for removal of certain defects and thereafter, by order dated 22-01-1996, the D.C.L.R. recommended the matter for fixation of rent in favour of the petitioner to the Sub-divisional Officer, Maharajganj. However, the Sub-divisional Officer, Magarajganj, Siwan by its order dated 07-03-1996 rejected the proposal & recommendation of the Circle Officer, Goriyakothi and the D.C.L.R., Maharajganj. It has been pleaded that aggrieved with the order of the Sub-divisional Officer, the petitioner filed an appeal, vide Appeal No. 184 of 1996-97, which was allowed on 15-10-1996. Subsequently, the revision, preferred by the State against the order of the Collector passed in Appeal No. 184 of 1996-97, stood dismissed on 06-02-1999. On the aforesaid premises, a prayer has been made to give effect to the order passed by the revisional authority as well as

appellate authority. It is not in dispute that even after the appeal preferred by the petitioner was allowed and revision preferred by the State was rejected, the rent in respect of the land in question was not fixed in favour of the petitioner.

In this case, a counter affidavit has been filed on behalf of respondent no. 2 to 6 and in counter affidavit, it has been indicated that the major portion of the land in question has already been settled to other persons, vide Settlement Case No. 155 of 1995-96, Settlement Case No. 26 of 1995-96 and Settlement Case No. 27 of 1995-96 respectively. It has also been indicated that settlees of aforesaid applications are already in possession over their land. A plea has been taken that the petitioner has deliberately not made settlees as party in the present writ petition.

Sri Krishna Kant Singh, learned counsel for the petitioner submits that once the appellate authority has set aside the order of the Sub-divisional Officer and order of the appellate authority was already affirmed, in view of rejection of revision preferred by the State, there was no option to the State but to fix the rent in respect of land in question in favour of the petitioner.

Besides hearing, I have also perused the materials available in record. Fact remains that only recommendation was made earlier for issuance of rent receipt, but the said recommendation

was rejected by the Sub-divisional Officer long back on 07-03-1996. It's hardly matter as whether the order of the Sub-divisional Officer was subsequently set aside by the appellate authority. Fact remains that the recommendation of the D.C.L.R. was not given effect to and the petitioner had not earlier bothered to approach this Court and after quite a long time from the last order of dismissal of the revision, which was dismissed in the year 1999, the present writ petition was filed after about nine years in 2008. From the counter affidavit, it is evident that land has already been settled to other persons, who have not been impleaded as party in the present writ petition.

Keeping in view the fact that the petitioner had not taken any step earlier, at such belated stage i.e. after about nine years, there is no justification to entertain such writ petition.

The writ petition stands dismissed.

(Rakesh Kumar, J.)

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