

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10257 of 2014

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Kamal Singh, S/o late Maharaja Bahadur Ram Ran Vijay Prasad Singh, Ex-Proprietor of Dumraon Raj Estate, Resident of Mohalla - Bhojpur Kothi Dumraon, P.O. and P.S. - Dumraon, District - Buxar.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reforms, Govt. of Bihar, Patna.
3. The Commissioner of Patna Division, Patna, Govt. of Bihar, Patna.
4. The Collector of the District Rohtas at Sasaram, at P.O. and P.S. Sasaram, Distt.- Rohtas (Sasaram).
5. The Deputy Collector, Land Reforms, Bikramganj at P.O. and P.S. - Bikramganj, Distt. Rohtas (Sasaram).
6. The Anchal Adhikari, Anchal Bikramganj, at P.O. & P.S. - Bikramganj, Distt. Rohtas (Sasaram).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Brij Mohan Kumar Singh, Adv.

For the Respondent/s : Mr. Manish Kumar, AC to AAG-6

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 20-10-2016

Heard the parties.

The petitioner is aggrieved by the order dated 22.06.2013 passed analogously in Misc. Case No. 4 of 2010-11 and Misc. Case No.5 of 2010-11 by the respondent D.C.L.R., Bikramganj, Rohtas, as contained in Annexure-5 to the writ petition, whereby and whereunder the aforesaid two cases, in view of the order of remand made by this Court, have been decided afresh after giving an opportunity of hearing to the petitioner, besides others, and the respondent D.C.L.R. in exercise of his powers under Section 4(h) of The Bihar Land Reforms Act, 1950 (in short 'Act, 1950') has annulled the lease deed dated 18.04.1946 on the ground that the same was made with a view to defeat the provisions of the Act, 1950.



The learned counsel appearing on behalf of the petitioner, while assailing the validity and correctness of the aforesaid order, has raised various issues of facts and law with respect to the lands in question as also the order impugned. According to him, the order impugned is not sustainable in the eye of law and is fit to be set aside by this Court.

The learned State counsel appearing on behalf of the respondents, on the other hand, submits that the order impugned is appealable in view of the provisions contained in Proviso I of Section 4(h) of the Act, 1950. According to him, the disputed questions of facts can be appropriately gone into by the statutory authorities by looking into all the relevant records and not by this Court in a proceeding under Article 226 of the Constitution of India. By referring to the averments made in the counter affidavit filed on behalf of the respondents particularly in paragraph 7, he further submitted that as many as five appeals have been filed against the impugned order before the prescribed appellate authority i.e. the District Collector, Rohtas and all those appeals are still pending. Therefore, according to him, if the petitioner is at all aggrieved, he may also file an appropriate appeal before the prescribed appellate authority raising all the issues of facts, which are sought to be raised in the present writ petition.

Indisputably, the alternative remedy of appeal available to the petitioner under the provisions of the Act, 1950 has not been exhausted by him.

It is well settled that the issues of facts must be raised and conclusively decided by the statutory authorities and only thereafter the powers of judicial review of the High Court under Article 226 of the Constitution of India may be invoked.

In above view of the matter, the present writ petition is dismissed, but a liberty is granted to the petitioner to approach the prescribed appellate authority for grant of an appropriate relief to him with respect to the lands in question as also the order impugned.

(Birendra Prasad Verma, J)

Arvind/-

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