

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6896 of 2012

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1. Yugal Yadav
2. Sitaram Yadav
Both sons of Late Ramji Yadav
3. Yogendra Yadav, S/O Dhanjeet Yadav
All R/O Village-Kamalpur, P.S.- Loukaha, District- Madhubani
..... Petitioner/s

Versus

1. The State Of Bihar through the Collector, Madhubani, District-Madhubani
2. Additional Collector, Madhubani
3. Deputy Collector, Land Reforms, Phulparas, District- Madhubani
4. Circle Officer, Khutouna, District- Madhubani
5. Smt. Reeta Devi, W/O Sri Kamlesh Barnait, R/O Village- Kamalpur, P.S.- Loukaha, District- Madhubani
..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Subodh Kumar Jha, Adv.
Mr. Pranav Kumar Jha, Adv.
Mr. Jagat Narain Singh, Adv.
For the Respondent nos.1to4 : Mr. Kundan Bhadur Singh, SC-22
Mr. Madanjeet Kumar, AC to SC-22
For the Respondent no.5 : Mr. Harish Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 25-01-2016 Heard the parties.

The petitioners are aggrieved by the order dated 30.08.2011 passed in Rent Fixation Appeal Case No.14 of 2010-11 by the respondent Additional Collector, Madhubani, as contained in Annexure-6, whereby the aforesaid appeal filed on behalf of the respondent no.5 was allowed and the order dated 23.08.2010 passed by the respondent D.C.L.R., Phulparas in Rent Fixation Case No.2 of 2009-10 has been set aside.

The learned counsel appearing on behalf of the petitioners, while assailing the validity and correctness of the impugned appellate order, has raised various issues of facts and law with respect to the right, title and possession of the petitioners over the lands in question, fully detailed in paragraph 4 of the writ petition. In support of his contentions, he has placed reliance on

various documents annexed with the writ petition. Apart from merits, he contended that the impugned appellate order is liable to be set aside and quashed by this Court only on the ground that reasonable opportunity of hearing was not given to the petitioners by the appellate authority before passing the impugned appellate order.

The matter has been contested by the learned AC to SC-22 appearing on behalf of the respondent nos.1 to 4 by filing a detailed counter affidavit. The matter has also been contested by the respondent no.5, who has entered appearance suo motu through her counsel and has filed her counter affidavit controverting the claims of the writ petitioners with respect to the lands in question. By referring to the averments made in the respective counter affidavits, they have supported the impugned appellate order, and it was pointed out by the learned counsel for the respondent no.5 that, in fact, written submission was filed by the petitioners. However, in the counter affidavit filed on behalf of the respondent nos.1 to 4, it has been admitted in paragraph 13 that despite issuance of notice by the appellate authority, the petitioners did not appear to contest the appeal filed on behalf of the respondent no.5 and, therefore, the appellate authority decided the aforesaid appeal on merits, but ex parte.

After having heard the parties and on consideration of the materials available on the record, this Court is of the opinion that the matter requires re-consideration and fresh decisions by the appellate authority. From the pleadings of the parties, it is apparent that that before passing the impugned appellate order, the petitioners or their counsel were not heard and, therefore, there has been violation of rules of natural justice.

In above view of the matter, without going into the merits of the claims of the respective parties regarding the lands in question, the impugned appellate order dated 30.08.2011 passed in

Rent Fixation Appeal Case No.14 of 2010-11 by the respondent Additional Collector, Madhubani, as contained in Annexure-6, is hereby set aside and quashed only on the ground of violation of rules of natural justice, and the matter is remitted back to the respondent Additional Collector, Madhubani with a direction to decide the aforesaid Rent Fixation Appeal Case No.14 of 2010-11 filed by the respondent no.5 afresh strictly in accordance with law, but, before passing any final order, an opportunity of hearing must be given to all concerned including the petitioners, the respondent no.5 and others, if any.

It is clarified that before the appellate authority the parties shall be at liberty to raise all the issues of facts and law, which may be available to them, with respect to the lands in question.

In order to expedite the matter, the petitioners as also the respondent no.5 are hereby directed to appear before the respondent Additional Collector, Madhubani with a certified copy of the present order within a period of one month from today, whereafter the respondent Additional Collector, Madhubani shall proceed to decide the aforesaid appeal in accordance with law and in the light of the observations and directions issued above and all endeavours shall be made to dispose of the aforesaid appeal at an early date preferably within a period of six months from the date of appearance of the parties before the respondent Additional Collector.

In the result, the writ petition stands allowed to the extent indicated, but with the observations and directions made above. However, the parties are left to bear their own costs.

Arvind/-

(Birendra Prasad Verma, J)

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