

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4001 of 2012

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Veer Raghav Prapanna Ramanuj Das disciple of Late Mahanth Sampat
Kumar Ramanuj Das R/O Village- Hanuman Nagar (Oena), P.S.- Runni
Saidpur, Distt.- Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and
Land Reforms Department, Government of Bihar, Patna
2. The Collector, Sitamarhi
3. The Land Reforms Deputy Collector, Sitamarhi Sadar
4. The Circle Officer, Runni Saidpur, Distt.- Sitamarhi
5. Rajnandan Mahto S/O Rambalam Mahto R/O Village- Dhanukhi,
P.S.- Runni Saidpur, Distt.- Sitamarhi

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vaidehi Raman Pd. Singh, Advocate
Mr. Mrityunjay Kumar, Advocate
For the Respondent Nos. 1 to 4 : Mr. Binay Kumar, AC to SC IV
For the Respondent No. 5 : Mr. Laxmi Kant Tiwary, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 04-03-2016

Heard the parties.

2. The petitioner has approached this Court in the present proceeding filed under Article 226 of the Constitution of India assailing the validity and correctness of notice dated 15.10.2011 issued by the Anchal Adhikari, Runni Saidpur (respondent no.4), as contained in Annexure-3 to the writ petition, whereby the petitioner has been directed to accept 24 times of rent of the lands in question mentioned in the impugned notice for granting raiyati right to the respondent no.5 over the same on the ground that the respondent no.5 was declared under raiyat of the lands in question by an order dated 04.10.1996 passed by the D.C.L.R., Sitamarhi Sadar.

3. The learned counsel appearing on behalf of the petitioner submits that at no point of time any petition under



Section 48D of the Bihar Tenancy Act, 1885 (in short, “the B.T.Act”) was filed by the respondent no.5 before the prescribed authority i.e. the respondent Anchal Adhikari for grant of raiyati right over the lands in question. He further submits that unless and until there is an adjudication in a proceeding under Section 48D of the B.T.Act, after giving an opportunity of hearing to the land owner, besides others, no notice could have been issued straightway by the Anchal Adhikari to the land owner to accept 24 times of rent for granting raiyati right to the respondent no.5 over the lands in question. He also contends that, at no point of time, the respondent no.5 was declared even under raiyat under Section 48E of the B.T.Act. It is pleaded that on these grounds, besides others, impugned notice is not sustainable in law.

4. The learned AC to SC 4, appearing on behalf of the respondent nos. 1 to 4, and the learned counsel appearing on behalf of the respondent no.5, though, have contested the matter on merits, but have not been able to satisfy the court that any proceeding under Section 48D of the B.T.Act and Rules made thereunder was, in fact, ever initiated with respect to the lands in question and final adjudication was made by the prescribed/competent authority. However, the learned counsel appearing on behalf of the respondent no.5 contended that earlier the respondent no.5 was declared bataidar by the D.C.L.R., Sitamarhi Sadar; therefore, the present notice has been issued by the respondent Circle Officer, Runni Saidpur.

5. After having heard the parties and on consideration of the materials available on the record, this Court is of the opinion that impugned notice dated 15.10.2011 (Annexure-3) cannot be sustained in law. Law is explicit that if some one has



acquired the status of occupancy under raiyat with respect to a plot of land under the provisions of the B.T.Act; and he/she desires that raiyati right should be conferred to him/her, then, in that case, an appropriate petition is required to be filed in prescribed form by such claimant under Section 48D of the B.T.Act and Rules made thereunder, and on filing of such petition, a proceeding is required to be initiated and after giving an opportunity of hearing to the claimant as also the land owner, a proper adjudication has to be made under the relevant provisions of the B.T.Act and Rules made thereunder and only thereafter final order can be passed directing the land holder to accept 24 times of rent of the lands so claimed for granting raiyati right to the claimant over such land. However, so far the present proceeding is concerned, this Court finds that neither any petition in the prescribed form was filed by the respondent no.5 under Section 48D of the B.T.Act nor any proceeding was initiated and straightway impugned notice was issued by the respondent Anchal Adhikari directing the writ petitioner to accept 24 times of rent for the lands in question, which is patently in violation of the scheme of Section 48D of the B.T.Act and the Rules made thereunder. Hence, it cannot be sustained in law.

6. For the reasons recorded above, the impugned notice dated 15.10.2011 (Annexure-3) is hereby set aside and quashed. However, the respondent no.5, if so advised, shall be at liberty to file an appropriate petition before the prescribed authority under Section 48D of the B.T.Act and the Rules made thereunder, after impleading all the necessary parties. If such a petition is filed, then the parties shall be at liberty to raise all the issues of facts and law with respect to the lands in question, which

may be available to them, before the competent authority and the proceeding so brought by the respondent no.5 shall be taken to its logical conclusion.

7. In the result, the writ petition stands allowed to the extent indicated, but with the observations and directions made above. However, there shall be no order as to costs.

(Birendra Prasad Verma, J)

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