

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19176 of 2014

- =====
1. Binod Kumar Thakur S/o Late Shatrudhan Thakur
 2. Shambhu Thakur S/o Late Ganga Thakur
 3. Kailash Thakur S/o Late Ganga Thakur
 4. Ashok Thakur @ Ashok Kr. Thakur S/o Late Tribhuwan Thakur
- Petitioner Nos. 1 to 4 are residents of Village- Musapur, Circle Ujiyarpur,
P.S. Muffasil Samastipur, District- Samastipur
5. Bhola Thakur S/o Late Saryug Thakur resident of village Musapur, P.S. Samastipur, District- Samastipur
 6. Ramesh Kumar Verma, S/o Ram Charitra Prasad, resident of village Musapur, P.S. Samastipur, District- Samastipur
 7. Ram Chandra Thakur S/o Late Nathuni Thakur resident of village Musapur, P.S. Samastipur, District- Samastipur

.... Petitioner/s

Versus

1. The State of Bihar, through the Collector, Samastipur
2. The Deputy Collector, Land Reforms, Samastipur
3. The Circle Officer, Jitvarpur, Samastipur
4. Smt. Punam Devi, W/o Arvind Kumar, resident of village Dharampur, Circle Office Jitwarpu, P.O. & P.S.- Jitvarpur, District- Samastipur

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Jitendra Kishore Verma, Advocate
Mr. Anjani Kumar, Advocate

For the Respondent Nos. 1 to 3: Mr. Haroon Quareshi, AC to SC 1

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 17-10-2016 Heard the learned counsel appearing on behalf of the petitioners and the learned AC to SC 1 appearing on behalf of the respondent nos. 1 to 3.

2. The petitioners are now essentially aggrieved by the order dated 10.09.2014 passed by the respondent D.C.L.R., Samastipur in Land Dispute Resolution Case No. 354 of 2014, as contained in Annexure-4 to this writ petition, whereby the petitioners have been called upon to appear in the aforesaid case and file their show cause.

3. The learned counsel appearing on behalf of the petitioners submits that originally respondent no.4 had filed a case



before the respondent Circle Officer, Jitvarpur for mutation of her name with respect to the lands in question, detailed in paragraph 5 of the writ petition, but that was finally rejected by order dated 16.08.2014 (Annexure-3) on the ground that complicated question of title is involved with respect to the lands in question, yet he referred the matter to the respondent D.C.L.R., Samastipur for deciding the dispute under the provisions of The Bihar Land Disputes Resolution Act, 2009 (in short “the Act, 2009”). It is contended that on the basis of aforesaid recommendation, the respondent D.C.L.R., Samastipur has mechanically registered aforesaid Land Dispute Resolution Case No. 354 of 2014 and has issued notice to the petitioners. It is next contended that the dispute between the parties with respect to the lands in question cannot be resolved under the provisions of the Act, 2009.

4. The learned State counsel appearing on behalf of the respondent nos. 1 to 3, on the other hand, submits that the matter is still pending before the respondent D.C.L.R., Samastipur and the questions sought to be raised in the present proceeding can very well be raised before the respondent D.C.L.R. and only after rejection of the claims of the petitioners, the matter can be agitated before the higher authority or before this Court. According to him, the present writ petition, at this stage, is premature.

5. After having heard the parties and taking into consideration the fact that by the impugned order only notice has been issued to the petitioners by the respondent D.C.L.R., Samastipur under the provisions of the Act, 2009 and final order is yet to be passed, this Court is of the opinion that all the issues, which are sought to be raised in the present proceeding, can very

well be raised before the respondent D.C.L.R. This Court is also of the opinion that even the question of jurisdiction can be raised by the petitioners before the respondent D.C.L.R. and once such a question is raised by the petitioners, then the respondent D.C.L.R., Samastipur shall take up that issue first and only after disposal of that issue, he can proceed further in accordance with law.

6. In above view of the matter, the present writ petition is disposed of with a liberty to the petitioners to raise all the issues of fact and law, which may be available to them with respect to the lands in question, before the respondent D.C.L.R., Samastipur.

7. The petitioners shall appear before the D.C.L.R., Samastipur within a period of one month from today, if not already appeared, with a certified copy of the present order and if any petition is filed on behalf of the petitioners raising the question of jurisdiction, then that must be decided at the first instance. However, before passing any final order, opportunity of hearing must be given to all concerned including the petitioners as also private respondent no.4, besides others, if any.

8. It is clarified that this Court has not gone into the merits of the claims of the parties with respect to the lands in question and this is left to be decided by the competent authority strictly in accordance with law.

9. The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

Tahir/-

U			
---	--	--	--