

.... Petitioner/s

1. The State Of Bihar through the Chief Secretary, Bihar, Patna
2. The Secretary, Ministry Of Environment Of Forest, Bihar, Patna
3. The Secretary, Social Welfare Department, Government Of Bihar, Patna
4. The District Collector, Jamui
5. The District Welfare Officer, Jamui
6. The Sub-Divisional Officer, Jamui
7. The Block Development Officer, Chakai, Distt.- Jamui

.... Respondent/s

For the Petitioner/s : Mr. Rakesh Kumar Sinha
For the Respondent/s : Mr. Manoj Kumar Jha AC to GP26

7 22-06-2016 Heard the counsel for the petitioner and Mr.

Manoj Kumar Jha AC to GP-26 for the State.

A counter affidavit on behalf of the respondent
nos. 4 to 7 is filed.

On the basis of settlement of the land (now falling under forest area) by the ex-landlord in favour of the ancestor of the petitioner a claim has been raised to grant him the forest right under the Scheduled Tribes and other traditional forest dwellers (Recognition of Forest Rights) Act, 2006 (for short ‘the Act’). It is stated that the Gram Sabha recommended the case of the petitioner for grant of such forest rights as provided



under the Act. At the instance of the Sub Divisional Officer the verification was also made whereafter the Circle Officer recommended for grant of such rights in favour of the petitioner vide Annexure-5. The respondents have not taken any decision in the matter which propelled the petitioner to file the present writ petition for a direction upon the respondents to confer him with the Forest Right under the Act as he qualifies to the same under the category “other traditional forest dwellers” as defined under Section 2 (o) of the Act.

The respondents have disputed the status of the petitioner as the forest dwellers and belonging to the category of “other traditional forest dwellers”. They have stated that the ancestors of the petitioner had never been resident(s) of or in possession of the forest land of Mouza Tiljori appertaining to khata no. 34, plot no. 327 area 4.10 acres which is a Jungle recorded as Gairmazarua Aam land. The authority of the ex-landlord who allegedly settled the land by way of Hukumnama has also been disputed.

Any such matter on being recommended by the Gram Sabha is to be examined by the Sub Divisional level committee constituted by the State Government under Section 5 of the Act. The claim can thereafter be raised before the District

Level Committee constituted by the State Government under Section 7 of the Act which shall be final. It does not appear from the pleadings on record, that the claim of the petitioner was placed before and considered by either of the two committees. Seen thus, the Forest Right claimed by the petitioner has not finally been adjudicated by the respondents.

Considering the above, I am persuaded to dispose of the writ application by directing the respondents to place the matter of the petitioner for consideration by the Sub Divisional Level Committee or the District Level Committee, as the case may be, wherein the claim of the petitioner shall be decided with reference to the materials placed before the committee. I would further direct the respondents to complete the exercise, if not already completed, as quickly as possible preferably within three months from the date of receipt/ communication of a copy of this order before the Secretary, Ministry of Environment of Forest, Govt. of Bihar (respondent no.2) as well as the Sub Divisional Officer, Jamui (respondent no.6).

(Kishore Kumar Mandal, J)

Shyam/-

U			
---	--	--	--