

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.23563 of 2012

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1. Ghanshyam Agrawal Son Of Late Sitaram Agrawal Resident Of Village
Sanhoula, P.S. and P.O. Sanhoula, District Bhagalpur

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner, Bhagalpur Division, Bhagalpur
3. The Deputy Collector Land Reforms, Kahalgaon, District Bhagalpur
4. The Circle Officer, Sanhoula, District Bhagalpur
5. Purushottam Kumar Agarwal Son Of Late Bishwanath Prasad Agarwal Resident
Of Village Sanhoula, P.S. and P.O. Sanhoula, District Bhagalpur
6. Sanajay Agrawal Son Of Late Bishwanath Prasad Agarwal Resident Of Village
Sanhoula, P.S. and P.O. Sanhoula, District Bhagalpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. BIMLENDU MISHRA

For the Respondent/s : Mr. Prabhat Ranjan, A.C. to G. P. 12.

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 05-01-2016

In spite of notice no one has appeared on behalf of the
private contesting respondents.

The writ application assails the order(s) dated
26.03.2012 passed by respondent no. 3, Deputy Collector Land
Reforms, Kahalgaon in Bihar Land Dispute Resolution Case No. 229
of 2011-12 (annexure- 2) as also the appellate order dated 25.10.2012
passed by the Divisional Commissioner, Bhagalpur Division,
Bhagalpur in Bhagalpur Misc. (Land Dispute Resolution) Appeal
Case No. 37 of 2012-13 (annexure-3).

Respondent nos. 5 and 6 approached the Deputy



Collector Land Reforms, Kahalgaon raising a grievance with respect to the said land alleging therein that it was the applicants who had title over the land and the writ petitioner illegally encroached thereupon. A prayer for demarcation and removal of encroachment was made. Notice was issued to which the writ petitioner did not respond. The respondent Deputy Collector Land Reforms allowed the application vide order dated 26.03.2012 (annexure-2). Aggrieved thereby the writ petitioner filed appeal before respondent Divisional Commissioner, Bhagalpur vide Bhagalpur Misc. (Land Dispute Resolution) Appeal Case no. 37 of 2012-13. No relief was granted to the petitioner. These two orders are impugned in the present writ application.

Mr. Mishra, learned counsel for the petitioner, contends that the complex question of title was sought to be agitated before the forum created under the Bihar Land Dispute Resolution Act 2009 (shortly the Act). It is not the case of the respondents that the land was settled or allotted to them under any of the provisions set out in the said Act. Relying on the decisions in the case of **Smt. Basmati Devi Vs. Smt. Anju Kumari reported in 2012(3) PLJR, 214** as also the Division Bench judgment of this Court in the case of **Maheshwar Mandal & another Vs. the State of Bihar & Others reported in 2014(3) PLJR, 281**, it has been contended that the authority under the Act has no jurisdiction to entertain such dispute

and adjudicate thereupon. Petitioner has already filed title suit No. 489 of 2011 in respect of the said land impleading the respondents as defendants in which they have already appeared. The impugned orders having been passed without authority of law merit to be quashed.

Learned counsel for the State having regard to the ratio laid down in the aforesaid two cases, has not disputed the contention of the petitioner.

Considering the submissions of the parties, I am satisfied that the orders passed by the original as well as the appellate authority under the Act are fit to be quashed and set aside. Presumably, filing of the suit by the petitioner which is being contested by the private respondents herein is also one of the reasons for not opposing the prayer made in the writ application.

Consequently, the writ application is allowed. Orders dated 26.03.2012 contained in annexure-2, as well as the appellate order dated 25.10.2012, contained in annexure-3, are quashed and set aside. No order as to cost.

(Kishore Kumar Mandal, J)

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