

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18991 of 2012

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Most. Kuadari W/O Late Phulchan Ram, Resident of Village- Debadh, P.S.-
Subhadra, P.O.- Gaunaha, District- West Champaran

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, West Champaran, Bettiah
2. The Collector, West Champaran, Bettiah
3. The Additional Collector, Bettiah, West Champaran
4. The Sub Divisional Officer, Bettiah Sadar, Bettiah, West Champaran
5. The Sub Divisional Officer, Narkatiaganj, West Champaran
6. The Deputy Collector, Land Reforms, Bettiah, West Champaran
7. The Deputy Collector, Land Reforms, Narkatiaganj, West Champaran
8. The Circle Officer (The Anchal Adhikari), Gaunaha Anchal, Gaunaha, West Champaran
9. Prahlad Mahto S/O Mohan Mahto, Resident of Village- Wajani, Anchal- Gaunaha, District- West Champaran
10. Sarla Kumari W/O Sukhal Yadav, Resident of Village- Wajani, Anchal- Gaunaha, District- West Champaran

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar No.1

For the Respondent No.1 to 8 : Mr. Jay Prakash Sharma, AC to G.P. XI

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 17-05-2016 In view of the office note dated 12.05.2016 that the respondent no. 9 and 10 have refused to receive notice issued by this Court, let service of notice upon them be treated to be valid.

On the request of the parties, the matter has been taken up for consideration on merits.

The petitioner is aggrieved by the order dated 28.02.2011 passed in Case No. 1 of 1989-90 by the respondent Additional Collector, West Champaran, Bettiah, as contained in Annexure-2, whereby the aforesaid case filed on behalf of the petitioner for cancellation of Jamabandi with respect to the lands in question has been rejected.

The learned counsel appearing on behalf of the petitioner submits that though the aforesaid Case No.1 of 1989-90 was originally filed under the provisions of The Bihar Tenant's Holdings (Maintenance of Records) Act, 1973, but in view of the provisions contained in Section 23(2) of The Bihar Land Mutation

Act, 2011 (in short 'Act, 2011'), the impugned order shall be treated to have been passed under the provisions of the aforesaid Act, 2011.

The learned counsel appearing on behalf of the petitioner as also the learned State counsel appearing on behalf of the official respondents, are unanimous in their submissions that the impugned order is appealable before the prescribed appellate authority under Section 9(6) (a) of the Act, 2011.

In above view of the matter, the learned counsel appearing on behalf of the petitioner seeks permission to withdraw the present writ petition with a liberty to approach the prescribed appellate authority for grant of appropriate relief(s) with respect to the lands in question as also with respect to the order impugned.

Permission is accorded.

The writ petition stands disposed of as withdrawn with the liberty aforesaid.

It is clarified that if an appropriate memo of appeal is filed on behalf of the petitioner within a period of three weeks from today with a certified copy of the present order, and if it is found to have become barred by limitation and if any petition is filed on behalf of the petitioner for condonation of such delay, then the prescribed appellate authority shall take into consideration that on a bonafide legal advice, the present writ petition was filed before this Court on 05.10.2012 and that remained pending before this Court till date.

(Birendra Prasad Verma, J)

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