

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18407 of 2008

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1. Vijay Singh son of late Laxmi Narayan Singh.
 2. Shandhya Devi wife of late Laxmi Narayan Singh, both resident of village-Dumari, P.S. Muffasil (Begusarai), P.O. Begusarai, District Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar
2. Additional Collector, Begusarai, District Begusarai.
3. S.D.O., Begusarai, District Begusarai.
4. D.C.L.R., Begusarai, District Begusarai.
5. Circle Officer, Begusarai, District Begusarai.
6. Chandradeo Singh
7. Manikant Singh, both sons of late BaudhuNarayan Singh.
8. Janaradan Singh son of late Sheonandan Singh, All residents of village-Dumari, P.S. Mufassil, P.O. Begusarai, District- Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Hemendra Prasad Singh, Sr. Adv.

For the Respondent No. 1 to 5: Mr. Madhukar Mishra, AC to SC-31

For the Respondent No. 6 to 8: Mr. Binod Kumar

Mr. Madan Mohan

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 02-05-2016

Heard the learned Senior counsel appearing on behalf of the petitioners and the learned A.C. to SC-31 appearing on behalf of the respondent no. 1 to 5 as also the learned counsel appearing on behalf of the respondent no. 6 to 8.

The petitioners are aggrieved by the order dated 02.06.2008 passed in Jamabandi Cancellation Appeal No. 4 of 2007-08 by the respondent D.C.L.R., Begusarai, as contained in Annexure-1, whereby the order dated 13.07.2007 passed in Mutation Case No. 1035 of 2007-08 by the respondent Anchal Adhikari, Begusarai has been set aside and the proceeding has been dropped.

The learned senior counsel appearing on behalf of the petitioners has raised various issues of facts and law with respect to

the validity and correctness of the impugned order passed by the respondent D.C.L.R., Begusarai. However, he has fairly conceded that against the impugned order one Mutation Revision Case No. 54 of 2008 has been filed by one Ram Binod Singh, purchaser of the part of the lands in question from the writ petitioners, and that revision application is still pending.

Per contra, the learned counsel appearing on behalf of the respondent no. 6 to 8, while supporting the impugned order, has raised the question of maintainability of the present writ petition at this stage. According to him, against the impugned order, a revision is maintainable before the prescribed revisional authority. It is further submitted that indisputably, against the impugned order, Revision Case No. 54 of 2008 is still pending before the District Collector, Begusarai and in that view of the matter, according to him, the writ petition is not maintainable and is fit to be dismissed.

After having heard the parties and on consideration of the materials available on record, this Court is of the opinion that several disputed question of facts are involved in the present proceeding, which are required to be conclusively decided by the statutorily authority.

It is well settled that the issues of facts must be raised and conclusively decided by the statutory authorities, and only thereafter powers of judicial review under Article 226 of the Constitution of India may be invoked. Furthermore, this Court is also of the opinion that against one order, two parallel proceedings in two different courts should not be allowed to continue.

In above view of the matter, the writ petition is disposed of with a liberty to the petitioners to approach the District Collector, Begusarai by filing an appropriate revision application against the

impugned order passed by the respondent D.C.L.R., Begusarai. If an appropriate revision application is filed on behalf of the petitioners within a maximum period of four weeks from today, then the same shall be considered and decided on its own merit without being prejudiced by the fact that this Court has refused to interfere with the impugned order on the ground of availability of the alternative remedy.

This is further clarified that if such a revision application is filed before the District Collector, Begusarai, then the parties shall be at liberty to raise all the issues of facts and law before the revisional authority, which may be available to them with respect to the lands under dispute as also with respect to the order impugned.

It is also observed that if an appropriate revision application is filed on behalf of the petitioners within the time prescribed above and if it is found to have become barred by limitation and if any petition is filed on behalf of the petitioners for condonation of such delay, then the revisional authority shall take into consideration that on a bonafide legal advice, the present writ petition was filed before this Court on 17.12.2008 and that remained pending till date.

(Birendra Prasad Verma, J)

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