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Appe

2. Salim Khan S/O Ausan Khan, resident of Vill.- Parsa Pathan Patti, P.S.-
Darpa, District- East Champaran at Motihari Petitioner/s
Versus

Appearance :

For the Respondent No.1 : Dr. Anil Kr Uapdhyay, SC 20
Mr.Naresh Prasad, Advocate

For the Respondent No. 2 : Mr.Akhilesh Kumar, Advocate

3 11-02-2016 By order dated 17.09.2014 notices were issued to the respondent nos. 2 and 3, both by ordinary process as well as under registered post with A/D. In response to the aforesaid notice, the respondent no.2 has already entered appearance through his counsel. Notice on behalf of the respondent no.3 was received by the respondent no.2.

2. In above view of the matter, let service of notice upon respondent no.3 be treated to be valid.

3. Now, the matter is taken up for consideration on merits. The petitioners are aggrieved by the order dated 17.01.2013 passed in Case No. 80 of 2012 by the DCLR, Raxaul, East Champaran, as contained in Annexure-1 to the writ petition, whereby, the petition filed on behalf of the respondent no.2 under the provisions of The Bihar Land Disputes Resolution Act, 2009 (in short, “the Act, 2009”) with respect to the lands in question has been allowed.

4. The learned counsel appearing on behalf of the respondents raises a question of maintainability of the present writ petition on the ground of availability of an alternative remedy to the petitioners before the appellate authority under the provisions of the Act, 2009.

5. Taking into consideration the aforesaid submission and in view of the provisions contained in Section 14 of the Act, 2009, this Court is of the opinion that against the order impugned, the petitioners have an alternative and equally efficacious remedy before the prescribed appellate authority.

6. It is well settled that the issues of facts must be raised before and conclusively decided by the statutory authority, at the first instance, and only thereafter, the powers of judicial review of the High Court under Article 226 of the Constitution of India may be invoked.

7. In above view of the matter, the present writ petition is dismissed. However, the petitioners shall be at liberty to approach the appellate authority as prescribed under Section 14 of the Act, 2009 for grant of appropriate relief (s) with respect to the lands in question as also with respect to the order impugned.

8. If an appropriate appeal is filed on behalf of the petitioners within a period of four weeks from today with a certified copy of the present order, after impleading all the necessary parties, then the parties shall be at liberty to raise all the issues of facts and law before the appellate authority, which may be available to them, with respect to the lands in question as also with respect to the order impugned.

(Birendra Prasad Verma, J)

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