

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10232 of 2016

=====

Amir Hamja, S/o Late Abdul Shakur, resident of Bhauara, Kotwali Chowk, Ward
No. 29, Madhubani, P.S. Madhubani Town, District Madhubani

.... Petitioner

Versus

1. The State of Bihar through the Collector, Madhubani
2. The Collector, Madhubani
3. The Additional Collector, Madhubani
4. The Deputy Collector Land Reforms, Sadar, Madhubani
5. The Circle officer, Rahika, Madhubani

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Sanat Kumar Mishra, Advocate

For the Respondent/s : Mr. Vasant Vikash, AC to GP-12

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 27-07-2016

Heard parties.

The sole grievance of the petitioner is that though the land concerned was settled in favour of his ancestor in the year 1932, i.e., after publication of the cadastral survey records of right and, thereafter, the State of Bihar, after vesting of Jamindari, had also accepted his claim and created Jamabandi in favour of the ancestor of the petitioner and that is running till date. However, a case for cancellation of Jamabandi was initiated at the instance of the State but that was disposed of stating that in the facts and circumstances of the case no order for cancellation of Jamabandi can be passed but liberty was granted to the petitioner to file proper petition before the DCLR



under the Bihar Land Dispute Redressal Forum for correction of the entries made in the cadastral survey records of right and the petitioner claims that, in the same, his claim has been accepted, however, there is no final publication of the revisional survey records of right till date. Thereafter, such petition has been filed before the DCLR. Learned counsel submits that the title of petitioner is being challenged under the garb of the aforesaid proceeding and in view of the Division Bench decision rendered in ***Maheshwar Mandal & Anr. Vs. The State of Bihar & Ors. [2014 (3) PLJR 281]***, the DCLR does not have any jurisdiction to deal with such issue.

However, in my view, this writ petition is premature. Though the case has been registered but the issue has not been decided by the DCLR. Thus, the petitioner is required to file his objection before the DCLR and the DCLR is required to take a decision accordingly.

Accordingly, this writ application is being disposed of granting liberty to the petitioner to file objection raising all the issues which are available to him under the law and also the issue of maintainability of the case before the DCLR. After such objection is filed, let the same be decided by the DCLR on its own merit and in accordance with law. If issue of maintainability is raised by the petitioner, let the same be considered by the DCLR as a preliminary

issue and decided at the first instance and if he finds that the case is maintainable then he may proceed further for deciding the case.

It is made clear that such issue of preliminary objection regarding maintainability should be decided by the DCLR within a period of two months from the date of filing of the objection raising all amongst others the issue of maintainability.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	1.09.2016
Transmission Date	N.A.