

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11159 of 2014

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1. Md. Sayeed Ajmeri S/o Late Seyed Sah Basiruddin Asdaque.
 2. Ageela Khatoon W/o Md. Sayed Ajemri
 3. Md. Shahjahan Asdaque
 4. Md. Shahjaman Asdaque, Both S/o Late Sayeed Ajmeri, All residents of Village- Mohanpur Tola, Panhesa, P.O. & P.S & District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar through Deputy Collector, Land Reforms, Rajgir District Nalanda.
2. The Deputy Collector, Land Reforms, Rajgir, District Nalanda.
3. Md. Hasin S/o Abdul Khalique Resident of Village Mohanpur Tola Panhesa, P.O & P.S & District- Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raj Kishore Prasad Singh, Adv.

For the Respondent Nos.1 & 2: Mr. Ajay Kr. Rastogi, AAG-10

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 27-10-2016 Heard.

The grievance of the petitioners in the present writ petition filed under Article 226 of the Constitution of India is that the Case No. 55 of 2014 filed on behalf of the respondent no. 3 under the provisions of The Bihar Land Disputes Resolution Act, 2009 (in short 'Act, 2009') has been entertained by the respondent D.C.L.R., Rajgir (Nalanda), though the disputes raised therein cannot be gone into by the respondent D.C.L.R. under the provisions of the Act. 2009.

The learned counsel appearing on behalf of the petitioners submits that in view of the fact that the aforesaid Case No. 55 of 2014 filed on behalf of the respondent no. 3 is not maintainable under the provisions of the Act, 2009, therefore, the petitioners raised their objection about its maintainability, but without deciding the question of maintainability, the respondent

D.C.L.R. is prepared to proceed to decide the matter on merit though he has stayed the matter awaiting the final outcome of the present writ petition.

In the considered opinion of this Court, the question of maintainability can be raised and decided by the authority/ court where the lis is pending. Once the question of jurisdiction is raised by the parties to a lis, the authority/ court can take up the question of jurisdiction and decide the same, and only thereafter he can proceed further for deciding the matter on merits. In the impugned proceeding, as per submission of the learned counsel appearing on behalf of the petitioners, the question of jurisdiction has not been decided by the respondent D.C.L.R. and the matter has been simply kept pending awaiting decision of the present proceeding.

In above view of the matter, this Court is of the opinion that no useful purpose shall be served by keeping the present matter pending any longer and in issuing notice to the private respondents, rather the interest of justice shall be sub-served if the petitioners are granted liberty to file a fresh objection petition in the aforesaid pending case raising the question of jurisdiction of the respondent D.C.L.R., Rajgir (Nalanda) for deciding the disputes raised on behalf of the respondent no. 3 under the provisions of the Act, 2009.

If such a petition is filed on behalf of the petitioners within a period of one month from today with a certified copy of the present order, then the respondent D.C.L.R. shall take up the question of jurisdiction at the first instance and shall decide the same in accordance with law, after giving an opportunity of hearing to the petitioners as also the respondent no.3, besides others, if any, and only thereafter he shall proceed to decide the

matter on merits in accordance with law. The petitioners shall be at liberty to raise all the issues of facts and law regarding the question of jurisdiction before the respondent D.C.L.R.

The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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