

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10062 of 2011

1. Ramni Ranjan Prasad Sinha @ Ramni Ranjan Prasad Late Bhola Prasad Resident Of Village Karup English, Police Station Karakat Via Goroul, District Rohtas At Sasaram.
2. Md.Kasim Late Sheikh Md.Sharif Residnet Of Village Karup Engilish, Police Station Karakat Via Goroul, District Rohtas At Sasaram.

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Princial Secretary Water Resources Department, Government Of Bihar, Patna
3. The Superintending Engineer Sone Nhar Subdivision, Nasariganj, Rohtas
4. The Executive Engineer Sone Nahar Subdivision, Sarariganj, Rohtas
5. The Subdivisional Officer Sone Nahar Subdivision, Sarariganj, Rohtas
6. The Block Development Officer Karakat, District Rohtas
7. The Circle Officer Karakat , District- Rohtas
8. The Mukhia, Karup Panchayat Karakat, District- Rohtas
9. The Mukhiya, Jaishreee Panchayat District Rohtas
10. The Mukhiya Garai Panchayat District- Rohtas

.... Respondent/s

Appearance :

For the Petitioner/s : Ms. MAHASWETA CHATTERJEE

For the State Mr. Md. Irshad, AC to SC-1

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 25-10-2016

Questioning the correctness/legality of the notice dated 20.05.2011, addressed to all concerned by the Sub-Divisional Officer, Sone Nahar Subdivision, Nasariganj (Annexure-1), the present writ application has been filed. By the said notice, it was informed to all concerned that henceforth the Chat land of the Irrigation Department shall be allotted/settled according to the Bihar Canal Chat Settlement Rules, 2010 (for short ‘the



Rules') framed by the State Government. It is submitted that the petitioners or their ancestors were settled/allotted the land earlier on permanent basis. However, no settlement document has been enclosed. Instead, the petitioners have enclosed the money receipts showing frequent deposit of rent for a particular year. It is submitted that the land having been settled with the petitioners or their father/ancestor(s) on permanent basis cannot be annulled and the respondents legally cannot take steps for fresh settlement/allotment thereof in accord with the Rules which have prospective effect.

Counter affidavit have been filed on behalf of the respondents wherein it is stated that under the then prevalent provision of the Bihar Irrigation Manual as well as the diverse circulars issued from time to time by the Department, such lands were being settled to the neighbouring needy person(s) on annual basis for agricultural purposes. The State Government framed Rules called Bihar Canal Chat Land Settlement Rules, 2007 in exercise of the power conferred under Article 162 of the Constitution of India wherein the existing Rule/Circular for settlement of the government chat land and other related order(s) issued in the past by the Water



Resources Department were made ineffective. Under 2007 Rules, the canal chat land was to be settled/leased out on annual basis by way of open auction amongst the eligible bidders for only 09 months in a year. This provision created some complications and, as such, the government in the year 2010 framed the Rules. Rule 2 of the Rules provides for the settlement of the land to the eligible person by a committee for 03 years on lottery basis. Rule 4 (1) prohibits a leaseholder or the settlee to participate in the lottery for the next settlement of the land. The existing Rules framed in 2007 were repealed. As per the provision of the Rules, the notice has been issued which does not merit interference.

Upon hearing both sides and after perusal of the materials on record, it appears that the petitioners or their ancestor were earlier settled the land on year-to-year basis. Such settlement of government chat land is now governed by the rule-provision. The respondents have issued the notice in the light of the provision(s) of the Rules with a view to implement them.

The contention of the petitioner that the government chat land were permanently settled with them or their ancestor

appears to be completely misplaced. Except asserting the same, there is nothing on record to indicate/suggest that any such document of permanent settlement was created and registered.

The respondents, on the other hand, have taken a stand that the settlement of the government chat land prior to coming into force the Rules was being made on year-to-year basis as per the circulatory provision and the provision under the Manual which have now been repealed by 2007 Rules. Experiencing difficulty in the implementation of 2007 Rules, the State Government has now formulated the Rules in 2010 repealing all the previous provisions. Such settlement of the government chat land is governed by the rule-provision. The vires of the Rules is not under challenge.

Having given anxious consideration to the submissions of the parties, this Court finds that nothing has been placed on record by the petitioner to suggest that the government chat land was settled with the petitioners or their ancestor(s) on a permanent basis. The receipts of deposit of the rent also give credence to the fact that it was on year-to-basis. Now the field is governed by 2010 Rules. The vires of the Rules is not under challenge.

Situated thus, there is no merit in this writ application. Dismissed.

No order as to cost(s).

(Kishore Kumar Mandal, J)

HR/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	26.10.2016
Transmission Date	