

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17017 of 2011

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Muslim Shafi S/O Luchai Shafi, resident of Village- Sangi Tola Mahadeva,
Circle- Ghoghardiha, P.S.- Phulparas, District- Madhubani

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Madhubani
3. The Circle Officer, Ghoghardiha, Madhubani
4. Md. Isha Ansari S/O Late Jai Ansari, resident of Village- Mahadeva, P.O.
Sangi, District- Madhubani

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suraj Narain Yadav, Advocate

Mr.Upendra Kr.Chaubey, Advocate

For the Respondent Nos.1 to 3 : Mr. Saroj Kumar Sharma, AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 24-02-2016 In view of the office note dated 11.02.2016, let service
of notice upon respondent no.4 be accepted to be valid.

On the request of the learned counsel appearing on
behalf of the parties, the matter is being taken up for consideration
on merits.

The petitioner is aggrieved by order dated 14.08.2010
passed in Basgit Purcha Case No. 11 of 1986-87/ 2 of 1991-92 by
the respondent Circle Officer, Ghoghardiha, Madhubani, as
contained in Annexure- 15 to the writ petition, whereby the
homestead purcha issued in favour of the petitioner earlier with
respect to the lands in question has been cancelled and
consequently, jamabandi standing in the name of the petitioner has
also been cancelled.

Though the matter was argued for some time by the
learned counsel appearing on behalf of the petitioner as also the
learned AC to AAG 5 appearing on behalf of the respondent nos. 1
to 3 putting forward their respective claims with respect to the

lands in question, but finally both the learned counsel conceded that against the order impugned, the petitioner has an alternative and efficacious remedy before the respondent District Collector, Madhubani in view of the provisions contained in Section 21 of The Bihar Privileged Persons Homestead Tenancy Act, 1947 (in short, “the Act, 1947”).

In the above factual and legal matrixes, the learned counsel appearing on behalf of the petitioner seeks permission to withdraw the present writ petition with a liberty to approach the District Collector, Madhubani for grant of appropriate relief (s) with respect to the lands in question as also with respect to the order impugned.

Permission is accorded.

The writ petition stands disposed of as withdrawn with the liberty aforesaid.

It goes without saying that if an appropriate petition is filed on behalf of the petitioner under Section 21 of the Act, 1947 before the respondent District Collector, Madhubani, then the same shall be considered and decided strictly in accordance with law, but before passing any final order, an opportunity of hearing must be given to all concerned including the petitioner and the respondent no.4, besides others, if any.

The parties shall be at liberty to raise all the issues of facts and law, which may be available to them, with respect to the lands in question.

(Birendra Prasad Verma, J)

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