

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21897 of 2011

With

Interlocutory Application No. 8766 of 2015

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Mahanth Madan Kumar Das son and disciple of Late Guru Mahanth Pancham Das
Ati Prachin Udasin Bari Sangat at Mohalla Madhubani, Police Station Khajanchi
Hat, District Purnea Petitioner/s

Versus

1. The State of Bihar through the Commissioner, Revenue and Land
Reforms Deptt., Govt. of Bihar.
 2. The Divisional Commissioner, Purnea Division, Purnea.
 3. The Collector, Katihar.
 4. The Additional Collector, Katihar.
 5. The Circle Officer/Anchal Adhikari, Katihar Sadar, Police Station Katihar
Town, District Katihar.
 6. Ambika Prasad Singh S/o Late Sarjug Singh
 7. Chandrika Prasad Singh S/o Late Jibach Singh
 8. Mundrika Singh S/o Sarjug Singh
 9. Nirmala Devi @ Singh W/o Chakardhari Singh
 10. Nunu Singh S/o Late Sublal Singh
- Respondent Nos. 6 to 10 are resident of Mohalla Hariganj, District Katihar
11. Dera Sahi Samadan Patiala through Mahant Depindra Das Chela Mahanth
Jagat Ram at New Dal Dalian Patiala, Panjab being the superior Dera of
Udasin Sagat, Mohalla Madhubani, P.S.K.Hat, District Purnea
- Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr.Surendra Kumar, Advocate
For the Respondent Nos. 1 to 5 : Mr.Chandra Shekhar Singh, AC to GA 10
For the Respondent Nos. 6 to 10: Mr.Ramesh Kumar Choudhary, Advocate
For the Respondent No. 11 : Mr.J.S.Arora, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 05.09.2016

Re: I. A No. 8766 of 2015

The learned counsel appearing on behalf of the respondent nos. 6 to 10 submits that, during the pendency of the present writ petition, respondent no.7 Chandrika Prasad Singh has passed away on 09.03.2015 leaving behind his heirs and legal representatives, fully detailed in paragraph no.2 of the instant Interlocutory Application. He further submits that in above view of the matter, the instant Interlocutory Application has been filed purportedly on behalf of the heirs and legal representatives of the aforesaid deceased respondent no.7. He next submitted that all the proposed heirs are major and they have entered appearance through

their learned counsel by filing their duly executed vakalatnama.

2. The learned counsel appearing on behalf of the petitioner as also the learned counsel appearing on behalf of the other respondents do not raise any objection to the prayer for substitution made in the present Interlocutory Application.

3. In above view of the matter, the prayer for substitution is allowed. Let the name of deceased respondent no.7 Chandrika Prasad Singh be expunged from array of the parties of the main writ petition and he be substituted by his heirs and legal representatives, fully detailed in paragraph no.2 of the instant Interlocutory Application, who all have already entered appearance through their counsel.

4. The present Interlocutory Application stands finally disposed of with the observations and directions made above.

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On the request of the learned counsel appearing on behalf of the parties, the main writ petition has been taken up for consideration on merits.

2. Heard the learned counsel appearing on behalf of the petitioner, the learned AC to GA 10, appearing on behalf of the respondent nos. 1 to 5 as also the learned counsel appearing on behalf of the respondent nos. 6 to 10 and the learned counsel appearing on behalf of the respondent no.11.

3 The petitioner has filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the order dated 06.02.2007 passed in Jamabandi Correction Case No. 16 of 2006-07 by the respondent Additional Collector, Katihar, as contained in Annexure-6 to the writ petition, whereby the aforesaid Jamabandi correction case filed on behalf of the private respondent No.6 and others has been allowed and direction has been issued to the respondent Anchal Adhikari, Katihar to issue rent receipt in favour of respondent no.11 with respect to the

lands in question. The petitioner is also aggrieved by the consequential order/communication dated 06.12.2010 issued by the respondent Anchal Adhikari, Katihar, as contained in Annexure-9 to the writ petition, whereby a direction has been issue to the Revenue Karamchari to issue rent receipts in the light of the impugned original order dated 06.02.2007 passed by the respondent Additional Collector, Katihar and delete the name of the petitioner from Register II with respect to the lands in question.

4. The learned counsel appearing on behalf of the petitioner, while assailing the validity and correctness of the impugned original order dated 06.02.2007 passed by the respondent Additional Collector, Katihar, has raised various issues of facts and law with respect to the lands in question including judgment and decree passed by the civil court as also the judgment dated 09.10.2014 passed by this Court in First Appeal No. 270 of 1996. He next contended that the impugned order dated 06.02.2007 (Annexure-6) is fit to be set aside on the ground of violation of rules of natural justice alone, besides on merits. By referring to the averments made in paragraph 9 to the writ petition, he further contended that before passing the impugned order dated 06.02.2007 (Annexure-6), neither any show cause notice was issued to the petitioner nor any opportunity of hearing was given to him, and the impugned order has been passed in complete violation of rules of natural justice; therefore, according to him, on that ground alone, the impugned order is not sustainable in law. Consequently, consequential order dated 06.12. 2010 (Annexure-9) is also fit to be set aside by this Court.

5. The learned State counsel appearing on behalf of the respondent nos. 1 to 5 and the learned counsel appearing on behalf of the respondent nos. 6 to 11, have contested the matter by referring to the averments made in their separate counter affidavits filed on their behalf. They contended that some mistake was committed by

the Circle Officer, Katihar and the order passed by the DCLR, Katihar was not properly implemented, therefore, the Additional Collector, Katihar by impugned order dated 06.02.2007 has rectified the mistake and has directed the Circle Officer, Katihar to issue rent receipt as per direction of the DCLR., Katihar. It is also contended that against the judgment and decree passed in First Appeal No. 270 of 1996 by a Bench of this Court, as contained in Annexure-12, the matter is sub judice before the Hon'ble Apex Court in SLP No. 5023 of 2015. Therefore, according to them, the petitioner cannot draw any benefit of the judgment and decree passed by a Bench of this Court in First Appeal No. 270 of 1996. However, despite repeated query made by this Court, they have not been able to demonstrate from their pleadings that before passing the impugned order dated 06.02.2007, as contained in Annexure-6 to the writ petition, any opportunity of hearing was given to the petitioner by the respondent Additional Collector, Katihar.

6. After having heard the parties at some length and on going through the materials available on the record, this Court is of the opinion that the impugned order dated 06.02.2007 (Annexure-6) passed by the respondent Additional Collector, Katihar cannot be sustained on the ground of violation of rules of natural justice. Admittedly, the petitioner is also laying claim over the lands in question, but the respondent Additional Collector, Katihar before passing the impugned order dated 06.02.2007, had neither issued any show cause notice to the petitioner nor had given any opportunity of hearing to him. Apparently, the principles of natural justice has not been complied with.

7. In above view of the matter, without going into the merit of the claims of the parties over the lands in question, the impugned order dated 06.02.2007 passed in Jamabandi Correction Case No. 16 of 2006-07 by the respondent Additional Collector, Katihar, as contained in annexure-6 to the writ petition, is hereby set

aside and quashed on the ground of violation of rules of natural justice alone, and the matter is remitted to the respondent Additional Collector, Katihar with a direction to decide the aforesaid Jamabandi Correction case filed on behalf of the private respondents afresh in accordance with law, but before passing any final order, opportunity of hearing must be given to all concerned including the petitioner and the respondent nos. 6 to 11, besides others, if any. Consequently, the consequential order dated 06.12.2010 issued by the Anchal Adhikari, Katihar, as contained in Annexure-9 to the writ petition, is also hereby set aside and quashed.

8. In order to expedite the matter, the petitioner as also the private respondent Nos. 6 to 11 are hereby directed to appear before the respondent Additional Collector, Katihar within a period of one month from today with a certified copy of the present order, whereafter he shall proceed to decide the aforesaid Jamabandi Correction Case No. 16 of 2006-07 afresh in accordance with law.

9. It is clarified that 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 before the respondent Additional Collector, Katihar.

10. In the result, the writ petition stands allowed to the extent indicated, but with the observations and directions made above. However, the parties are left to bear their own costs.

(Birendra Prasad Verma,J.)

Tahir/-

AFR/NAFR	
CAV DATE	
Uploading Date	12.09.2016
Transmission Date	