

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12070 of 2014

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Ayub Khan S/o late Tula Khan, village - Harkhauli, P.S. Mirganj, District - Gopalganj

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, District - Gopalganj
2. The Sub - Divisional Officer, Hathua, District - Gopalganj
3. The Circle Officer, Uchakagaon, District - Gopalganj
4. The Circle Inspector, Uchakagaon, District - Gopalganj
5. The Halka Karmchari, Uchakagaon, District - Gopalganj
6. Rajesh Mishra S/o late Bishwanath Mishra, Harkhauli, P.S. Mirganj, District – Gopalganj

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bishwajeet Singh, Adv.

For the Respondent No.1 to 5 : Mr. P.K. Verma, AAG-3

Ms. Divya Verma, AC to AAG-3

For the Respondent No. 6 : Mr. Ranjan Kr. Dubey, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 16-08-2016

Heard the parties.

The grievance of the petitioner in the present proceeding filed under Article 226 of the Constitution of India is that during the pendency of Sikmi Right Case No. 2003 of 2009-10, in view of remand made by the Appellate Authority vide order dated 28.9.2013 (Annexure-3), under the provisions of Section 48D of The Bihar Tenancy Act, 1885 (In short B.T. Act) and the Rules made thereunder, the respondent Circle Officer, Uchakagaon without deciding the sikmi right of the petitioner over the lands in question has issued rent receipts in favour of the private respondent no. 6.

The learned counsel appearing on behalf of the petitioner submits that the petitioner had filed the aforesaid Sikmi Right Case No. 2003 of 2009-2010 before the respondent Circle Officer,



Uchakagaon in the district of Gopalganj for grant of raiyati right to him under Section 48D of the B.T. Act and the Rules made thereunder with respect to the lands in question, fully detailed in paragraph-5 of the writ petition. The aforesaid case filed on behalf of the petitioner was finally allowed by order dated 07.12.2010 (Annexure-2) after giving an opportunity of hearing to both sides including the petitioner as also the respondent no. 6. According to him, the respondent no.6, being aggrieved by the aforesaid order, filed Sikmi Raiyati Right Appeal Case No. 22 of 2012-13 before the respondent S.D.O., Hathua, which was finally allowed by order dated 28.09.2013 (Annexure-3) on the ground that the procedures prescribed under Section 48D of the B.T. Act and Rules made thereunder were not strictly followed before accepting the claim made on behalf of the petitioner, and the matter was remitted back to the respondent Circle Officer to decide the aforesaid Sikmi Right case no. 2003 of 2009-10 afresh strictly in accordance with law and the procedure prescribed under Section 48D of the B.T. Act and the Rules made thereunder. He further contends that after aforesaid remand order, the matter has not been finally decided by the respondent Circle Officer, Uchakagaon, till date yet rent receipt has been issued in favour of the private respondent no.6, which is illegal.

Though the present writ petition was filed on 16.07.2014 after service of its two copies upon the learned Advocate General, Bihar, Patna, but no counter-affidavit has been filed on behalf of the official respondents till date. The respondent no.6, who has voluntarily entered appearance through his counsel, has also not filed any counter-affidavit, disputing the averments made in the writ petition.

In the aforesaid factual matrices, the present writ petition is



disposed of with a direction to the respondent Circle Officer, Uchakagaon to decide the aforesaid Sikmi Right case No. 2003 of 2009-10 afresh on merits expeditiously, preferably within a period of six months from the date of receipt of the present order in the light of order of remand made by the respondent S.D.O., Hathua, as contained in Annexure-3 to the writ petition, but before passing any final order, reasonable opportunity of hearing must be given to all concerned including the petitioner and the respondent no.6, besides others, if any. Till the aforesaid case is finally decided by the respondent Circle Officer, Uchakagaon, rent receipts shall not be issued in favour of the petitioner or in favour of the respondent no.6 with respect to the lands in question. Only after final disposal of the aforesaid case, the rent receipts shall be issued to the successful party.

It is clarified that this Court has not gone into the merits of the claims raised on behalf of the parties with respect to the lands in question and it is left to be decided by the statutory authority strictly in accordance with law.

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

(Birendra Prasad Verma, J)

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