

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.23232 of 2011

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1. Ram Chandra Ram son of Sri Hari Kishan Ram, resident of village Dharmaghat Parasi P.S. Karakat Gorai, District Rohtas
 2. Ram Rup Ram son of Late Gyan Chand Ram, resident of village Dharmaghat Parasi P.S. Karakat Gorari District Rohtas
 3. Sudama Ram, son of Late Kuldeep Ram, resident of village Dharmaghat Parasi P.S. Karakat Gorai, District Rohtas
 4. Suresh Kumar Gupta, son of Sri Hira Sah resident of village Dharmaghat Parasi P.S. Karakat Gorai, District Rohtas
 5. Lalan Ram son of Late Shiv Pujan Ram resident of village Karup P.S. Karakat Gorai, District Rohtas
 6. Mandodari Devi wife of Sri Hari Narayan Ram, resident of Village Gorakh Parasi, P.S. Karakat, Gorari Distrtict Rohtas
 7. Shiv Kumar Ram, son of Late Badan Ram resident of village Chilha P.S. Karakat, Gorari Disrtict Rohtas
 8. Kalim Mansuri son of Late Shekh Md. Sarif, resident of village Dharmaghat Parasi P.S. Karakat, Gorari, District Rohtas
 9. Jai Muni Tewari, son of Late Bhardul Tewari resident of village Karup P.S. Karakat Gorari District Rohtas
 10. Suraj Mania Kuwar wife of Late Gajadhar Haram resident of village Karup PS. Karakat, Gorai district Rohtas
 11. Son Kesari wife of Late Dular Ram resident of village Karup PS. Karakat, Gorai district Rohtas
 12. Bhago Kuwar wife of Late Kailash Singh Kushwaha, resident of village Karup PS. Karakat, Gorai district Rohtas
 13. Jai Nath Tiwari, son of Late Hardul Tewari resident of village Karup PS. Karakat, Gorai district Rohtas
 14. Awadhesh Kanu son of of Late Shakhi Manu resident of village Jama PS. Karakat, Gorai district Rohtas
 15. Algu Ram son of Late Dukhi Ram resident of village Karup PS. Karakat, Gorai district Rohtas
 16. Bhaiya Ram Singh, son of Late Musa Ram Singh resident of village Dharmaghat, Parasi P.S. Karakat, Gorari, District Rohtas
 17. Lal Mohar Ram, son of Late Nahak Ram resident of village Bad, P.s. Karakat Gorari, district Rohtas

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Water Resources Department, Govt. of Bihar, Patna
3. The Superintendent Engineer, Sone Nahar Sub Division, Nasariganj, Rohtas
4. The Executive Engineer Sone Nahar Sub Division, Nasriganj, Rohtas
5. The Sub-Divisional Officer, Sone Nahar Sub Division, Nasriganj, Rohtas
6. The Block Development Officer, Karakat, District Rohtas
7. The Circle Officer, Karakat, District Rohtas
8. The Mukhiya Karup Panchayat Karakat, Rohtas
9. The Mukhiya Jaishree Panchayat, Rohtas
10. The Mukhiya, Gorari Panchayat, District Rohtas

.... Respondent/s

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Appearance :

For the Petitioner/s : Mrs. MAHASWETA CHATTERJEE
Mr. Samir Kumar Sinha
For the Respondent/s : Mr. M. D. DWIVEDI SC23

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 03-05-2016

Heard Ms. Chatterjee for the petitioners and Mr. Kumar Priyaranjan,
SC-23 for the State.

17 petitioners have joined hands to file the present writ petition questioning the notice dated 02.07.2011 (Annexure-21) issued by the respondents for settlement of the canal chat/ land of Jaishree Rajbaha within Nasariganj Canal Division, Rohtas. In substance, they claim permanent settlement of the canal chat/ land either in the name of their father, mother, brother, husband or the ancestors. Relying on Annexure-2 to 12, it is stated that the settlement earlier made on year-to-year basis with them was made permanent by the Sub-Divisional Officer of the Sone Canal Subdivision, Nasariganj, Rohtas under the orders of his superior. On the basis of those annexures together with the fact that they are paying rent to the Canal Department/Division in respect of the subject land the writ application has been filed to question the steps taken by the respondents for fresh settlement of the canal chart/land in terms of the Bihar Canal Chat/Land Settlement Rules, 2010 (for short 'the Rules') effective from 13.07.2010. Be it noted that before enforcement of 2010 Rules such settlement was governed by another Rule framed by the State Government in the year 2006-2007. The same has, however, not been placed on record by the petitioners. It is further noted that virus of the Rules is also not under challenge in the present writ application.

The only contention of Ms. Chatterjee is that the respondents having

settled such land on permanent basis with the petitioners are now deprived from considering these lands for settlement for a term in terms of the Rules.

Per contra, the counsel for the State respondent(s) has submitted that any settlement on permanent basis by the local officer is wholly arbitrary exercise of jurisdiction without the sanction of law which this Court should not countenance. The previous Rules and now the present Rules provide for settlement of the canal chat/land for a period of 03 years on lottery basis. The purpose is that everyone who is eligible and desirous gets the privilege/largesse without any discrimination. The implementation of the Rule was the subject matter of a public interest litigation before this Court in CWJC No. 10842 of 2011 which was dismissed vide order dated 11.07.2011 (Annexure-B to the counter affidavit)

On a consideration of the rival submissions it appears that the sheet-anchor of the claim is diverse averments made in the writ petition and Annexure-2 to 12 enclosed in support thereof. Annexure-2 to 12 are the notice or the money receipts indicating that local canal division is issuing the rent receipts in token of payment of rent. Particular attention of the Court is drawn to Annexure-2 which is again a notice issued to petitioner no.1 by the respondent Sub-Divisional Officer, Sone Canal Subdivision stating that earlier such settlement was made on year-to-year basis but now the same has been made permanent. When queried, the petitioners are unable to state as to the jurisdiction of the Sub-Divisional Officer of the Canal Subdivision to permanently settle the canal chart/land under the orders of the Executive Engineer. The owner of the land including the canal chat/land is the State Government. Any such permanent settlement is to be made in accord with the circulatory/rule-provision and, that too, after approval of the State Government in concerned department. There is

nothing on record to indicate that the government approved the permanent settlement of the chart land. The Court therefore is not obliged to recognize an illegal/arbitrary act of the local officer. No lawful claim can be raised on that basis. Law in this regard is settled beyond cavil.

As stated, the rule-provision which now governs such settlement of the canal chart/land provides for settlement of the land by inviting application and draw of lots. It specifically provides for settlement of the canal chat/land for a period of 03 years and further that once a person is granted the State largesse, he shall not be eligible for such privilege on the second occasion immediately. This Court is of the considered view that the respondent(s) are obliged to settle the chat land of the Irrigation Department strictly in accordance with the Rules framed by the State Government. If the petitioner falls in the category of eligible persons they may apply and compete with others in accord with the Rules. On the basis of Annexure-2 to 12 of the writ petition, they cannot be accepted as the permanent settlee(s) of the canal chat/land of the Irrigation Department.

Situated thus, no relief can be granted to the petitioners as prayed in this writ application. The application is dismissed.

No order as to cost(s).

(Kishore Kumar Mandal, J)

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