

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4640 of 2006

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Prakash Agrawal @ Prakash Kumar Agrawal son of Late Jagdish Prasad Pransukha, Resident of Singheshwar, P.S. & Anchal Singheshwar, District Madhepura.

.... Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Old Secretariat, Patna.
2. The District Magistrate, Madhepura.
3. The D.C.L.R., Madhepura.
4. The Circle Officer, Singheshwar, Madhepura.
5. Rasho Rishideo son of Nazir Rishideo (Expunged vide order dated 2.7.2010 and substituted by his heir and legal representative, namely,) Jitendra Rishideo son of late Rasho Rishideo)
6. Soran Rishideo son of Nazir Rishideo
7. Gulab Devi wife of Sukhdeo Rishideo
8. Madho Rishideo son of Dango Rishideo
9. Vishwanath Rishideo son of Dhuthar Rishideo,
All resident of Village Rupauli, Tola Kotawan, P.O. Rupauli, P.S. and Anchal- Singheshwar, District Madhepura.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Agrawal, Adv.

For the Respondent No.1 to 4 : Mr. Amresh, AC to G.P. 13

For the Respondent Nos. 6 to 9 : Mr. Anish Chandra Sinha, Adv.

Mr. Krishna Murari Rawt, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGEMENT

6 02-08-2016 Heard the parties.

The petitioner is aggrieved by the order dated 11.5.2005 passed by the Circle Officer, Singheshwar, as contained in Annexure-3 to the writ petition, whereby after remand made by the respondent District Collector, Madhepura, he has affirmed his previous order allowing the homestead parcha to the private respondents with respect to the lands in question.

The learned counsel, appearing on behalf of the petitioner, while assailing the validity and correctness of the impugned order, has submitted that all the issues of facts raised on behalf of the petitioner with respect to grant of Basgit parcha in

favour of the private respondents were not considered by the Anchal Adhikari, Singheshwar while passing the impugned order dated 11.5.2005 (Annexure-3). According to him, the impugned order cannot be sustained in law.

The learned State counsel, appearing on behalf of the respondent nos. 1 to 4, as also the learned counsel appearing on behalf of the private respondents, on the other hand, are unanimous in their submissions that against the order impugned the petitioner has an alternative and efficacious remedy before the District Collector, Madhepura in terms of Section 21 of The Bihar Privileged Persons Homestead Tenancy Act, 1947 (In short the Act). Therefore, according to them, on the ground of availability of alternative remedy to the petitioner, the present writ petition is fit to be dismissed on that ground alone.

After having heard the parties and on consideration of the materials available on the record, this Court is of the opinion that the submissions made by the learned counsel appearing on behalf of the respondents are correct. Indisputably, against the impugned order, the petitioner has an alternative and efficacious remedy before the District Collector, Madhepura in terms of Section 21 of the Act.

As noticed above, the learned counsel appearing on behalf of the petitioner has raised various issues of facts while assailing the validity and correctness of the impugned order. It is well settled that the issues of facts must be raised and conclusively decided by the statutory authorities at the first instance and only thereafter, powers of judicial review of the High Court under Article 226 of the Constitution of India may be invoked.

In above view of the matter, the present writ petition is

dismissed, but a liberty is granted to the petitioner to approach the District Collector, Madhepura under Section 21 of the Act for grant of appropriate relief(s) with respect to the lands in question as also the order impugned.

It is clarified that the parties shall be at liberty to raise all the issues of facts and law before the District Collector, Madhepura, which may be available to them with respect to the lands in question as also the order impugned, but before passing any final order, opportunity of hearing must be given to all concerned.

(Birendra Prasad Verma, J)

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