

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.339 of 2016

IN

Civil Writ Jurisdiction Case No. 18951 of 2010

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1. Mosmat Sushila Devi Wife of late Laxmi Sahu Resident of Village-Kanhauli Po
and PS Jhanjharpur District Madhubani.

Vs.

1. The State of Bihar
2. The District Magistrate-cum-Collector, Madhubani
3. The Sub-Divisional Police Officer, Jhanjharpur, Madhubani
4. The Circle Officer, Jhanjharpur Block, Madhubani
5. The Circle Inspector Block Jhanjharpur District Madhubani
6. The Revenue Karmchari Block Jhanjharpur District Madhubani.
7. Pappu Sahu son of late Yogendra Sahu Resident of Village- P.,C and PS
Jhanjharpur District Madhubani

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Baleshwar Kamat
For the Respondents No. 1 to 6 : Mr. Sudhir Kumar, A.C. to AAG 2.
For the Respondent no. 7 : Mr. Ashok Kumar Prasad.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 13-07-2016

Re : M.J.C. No. 339 of 2016.

After having heard learned counsel for the parties
and for the reasons disclosed in the present M.J.C. application, the
prayer for restoration of C.W.J.C. No. 18951 of 2010, which stood
dismissed for want of prosecution by order dated 18.12.2015, is
allowed. C.W.J.C. No. 18951 of 2010 is restored to its original file
subject to payment of costs of Rs.500/- (rupees five hundred) by the
petitioner to opposite party no. 7 within a period of two weeks from
today. The costs of Rs.500/- shall be paid by the learned counsel for
the petitioner to the learned counsel for opposite party no. 7 for being
handed over to opposite party no. 7 Pappu Sahu himself within a
period of two weeks from today failing which it shall be construed

that the present M.J.C. application stood dismissed on account of non compliance of the Court's order.

2. The present M.J.C. application stands finally disposed of with the observation/direction made above.

Re : C.W.J.C. No. 18951 of 2010.

3. On the request of the parties, the main writ application has been taken up for consideration on merits.

4. The petitioner is aggrieved by the order dated 27.03.2006 passed in Basgit Parcha Case no. 4 of 2002-03/37 of 2005-06 by the District Collector, Madhubani, as per annexure-3 to the writ petition, whereby the petition filed on behalf of father of respondent no. 7 was allowed and the homestead Parcha issued in favour of mother-in-law of the present petitioner was cancelled.

5. Learned counsel for the petitioner as also learned counsel for respondent no. 7 have argued the matter at great length in support of the respective case of the parties, but finally they have conceded that on 27.03.2006, when the order was passed by the District Collector, Madhubani, both the parties were absent, yet the matter was decided by him.

6. From a plain reading of the impugned order dated 27.03.2006 it appears that the petitioner could not place her case before the District Collector on account of her absence as also absence of her lawyer.

7. In the given facts of the case, this Court is of the opinion that the matter requires re-consideration and a fresh decision

by the District Collector, Madhubani as both sides claim to be poor and landless persons. If that be so, the interest of both the parties are required to be protected by the State authorities, but that has not been done in the present case.

8. For the reasons recorded above, the impugned order dated 27.03.2006 passed in Basgit Parcha Case No. 4 of 2002-03/37 of 2005-06 by the respondent District Collector, Madhubani, as contained in annexure-3 to the writ application, is hereby set aside and quashed and the matter is remitted back to the respondent District Collector, Madhubani with a direction to decide the aforesaid case afresh on merits, after giving an opportunity of hearing to both sides.

9. In order to expedite the matter, the petitioner as also the respondent no. 7 are hereby directed to appear before the respondent District Collector, Madhubani within a period of four weeks from today with a certified copy of the present order where after the respondent District Collector, Madhubani shall proceed to decide the matter afresh in accordance with law bearing in mind the observation made above by this Court.

10. The writ application stands allowed to the extent indicated, but with the observations and directions made above. However, there shall be no orders as to costs.

(Birendra Prasad Verma, J)

Amin/-

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