

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13734 of 2007

=====

1. Bhikhari Halkhor @ Bhikhari Ram
2. Jang Bahadur Halkhor @ Jang Bahadur Ram @ Jag Badur Ram
3. Kesho Ram @ Halkhor
Petitioner nos.1 to 3 are sons of late Suba Halkhor
4. Achhey Lal Ram @ Halkhor
5. Mahendra Ram @ Halkhor
6. Sri Kishun Ram @ Halkhor.
Petitioner nos.4 to 6 are sons of late Nagina Halkhor
7. Mostt. Sugiya Kuer, wife of late Rajendra Halkhor
8. Dilip Ram @ Halkhor
9. Shankar Ram @ Halkhor
10. Hippi Ram @ Halkhor
Petitioner nos.8 to 11 are sons of late Rajendra Halkhor
All resident of village-Kochas, P.S.-Kochas, District-Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar
2. Collector, Rohtas at Sasaram
3. S.D.O., Sasaram, Rohtas
4. Anchal Adhikari, Kochas, Rohtas
5. Smt. Dharamshila Devi, wife of Sri Kishun Ram
6. Chinta Kuer, wife of late Rajneti Ram
7. Dhanoj Kumar, son of Sri Ram Ram
8. Sharda Devi, wife of Baijnath Ram
9. Piyaro Devi, wife of Lal Muni Ram
All resident of village and P.O.&P.S.-Kochas, District-Rohtas

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Mahesh Prasad No.2, Adv.
Mr. Rewti Kant Raman, Adv.
For the Respondent nos.1 to 4 : Mr. Sanjay Kumar, AC to AAG-4.

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 28-07-2016

Heard learned counsel appearing on behalf of the petitioners as also the learned AC to AAG-4 appearing on behalf of the respondent nos.1 to 4. However, none appears on behalf of the private respondent nos.5 to 9, though the notices were issued to them by a Bench of this Court by an order dated 27.02.2009.



The petitioners are aggrieved by the order dated 02.01.2004 passed in Land Settlement Appeal Case No.6 of 2002 by the respondent District Collector, Rohtas (Sasaram), whereby the aforesaid appeal filed on behalf of the petitioners was dismissed for want of prosecution. The petitioners are also aggrieved by the order dated 12.09.2005 passed in aforesaid Land Settlement Appeal Case No.6 of 2002 by the respondent District Collector, Rohtas (Sasaram), whereby the prayer for restoration of the main appeal made on behalf of the petitioners has been rejected. Both the aforesaid orders dated 02.01.2004 and 12.09.2005 passed in Land Settlement Appeal Case No.6 of 2002 have been brought on record as Annexure-6 to the writ petition.

The learned counsel appearing on behalf of the petitioners submits that the lands in question, fully detailed in paragraph 4 of the writ petition, was recorded in the name of the petitioners during the consolidation proceeding. However, the respondent Anchal Adhikari, Kochas, without giving reasonable opportunity of hearing to these petitioners, made a recommendation for settlement of the lands in question in favour of the private respondents on the ground that the lands in question have been recorded as “Anawad Bihar Sarkar” in the revenue records, which was approved by the respondent S.D.O., Sasaram by his cryptic order dated 25.05.2000 (Annexure-4). It is further submitted that the petitioners, being aggrieved by the aforesaid mechanical order, filed Land Settlement Appeal Case No.6 of 2002 before the respondent District Collector, Rohtas (Sasaram), but, on account of certain confusion, no pairivi could be made on their behalf on 5.12.2003 and 02.01.2004, as a result of which the aforesaid appeal was dismissed on 02.01.2004 for want of prosecution. According to him, the prayer



for restoration has also been rejected by the impugned order dated 12.09.2005 mechanically. It is pleaded that the matter ought to have been decided on merits by the respondent District Collector, Rohtas (Sasaram), but on technical grounds the petitioners have been denied justice. Therefore, according to him, one more opportunity may be given to the petitioners for placing their case before the appellate authority.

The learned State counsel appearing on behalf of the respondent nos.1 to 4 has fairly conceded that the matter has not been decided on merits; therefore, the respondent District Collector, Rohtas (Sasaram) may be directed to decide the case on merits. As noticed above, despite service of notice, none appears on behalf of the respondent nos.5 to 9 to contest the claims raised on behalf of the petitioners.

In the aforesaid factual matrices, this Court is of the opinion that the matter requires reconsideration and fresh decision on merits, as the issues raised on behalf of the petitioners regarding their right and title over the lands in question have not been gone into either by the Anchal Adhikari, Kochas or by the District Collector, Rohtas (Sasaram), muchless by the S.D.O., Sasaram. Accordingly, the impugned orders dated 02.01.2004 as also 12.09.2005 passed by the District Collector, Rohtas (Sasaram) in Land Settlement Appeal Case No.6 of 2002 (Annexure-6 to the writ petition) are hereby set aside and quashed, but with a direction to the respondent District Collector, Rohtas (Sasaram) to decide afresh the aforesaid Land Settlement Appeal Case No.6 of 2002 on merits. However, before passing any final order by the respondent District Collector, Rohtas (Sasaram), reasonable opportunity of hearing must be given to all concerned including the petitioners and the respondent nos.5 to 9, besides others,

if any.

In the result, the present writ petition is allowed to the extent indicated, but with the observations and directions made above.

(Birendra Prasad Verma, J)

Arvind/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.07.2016
Transmission Date	NA