

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25686 of 2013

Sanjukta D. Roy W/O Late Dr. Ram Babu Roy, resident of Flat No. 306, Narayan Shree Apartment, Mazar Gali, Sheikhpura, P.S. Shastri Nagar, District Patna and at Salisbury, North Keriline, Usa, through Attorney Satyabarat Singh, Village Nisharpura, P.S. Phulwari present P.S. Parsa Bazar, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. Smt. Preeti Sinha W/O Late Shashi Bhushan Rai, resident of C/O Dr. UN Sinha, Road No. 3, Rajendra Nagar, P.S. Kadamkuan, District Patna.
3. Ranjan S. Roy S/O Dr. Ram B. Roy, resident of 1312 Over Hill Road, Salisbury, North, Gorolinia 28144-8415 U.S.A.
4. Samual J. Roy S/O Dr. Ram B. Roy, resident of 1312 Over Hill Road, Salisbury, North, Gorolinia 28144-8415 U.S.A.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Sandeep Kumar, Advocate
Mr. Ajit Kumar, Advocate
For the Respondent No.1 : Mr. Sunil Kr. Mandal, SC 24
Mr. Bipin Kumar, AC to SC 24
For the Respondent No.2: Mr. Md. Anis Akhtar, Advocate

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 18-04-2016

Heard the parties.

2. By the impugned order dated 18.09.2013 passed in Land Dispute Case No. 130 of 2012-13, as contained in Annexure-5, the respondent DCLR, Patna Sadar in purported exercise of his power under Section 4 of The Bihar Land Disputes Resolution Act, 2009 (in short, “the Act, 2009”) has declared the right, title and possession of respondent no.2 with respect to the property under dispute, namely, Flat No. 306-B, Narayan Shree Apartment, Mazar Gali, Sheikhpura, P.S Shastri Nagar, District Patna.

3. Indisputably, neither the respondent no.2 nor the writ petitioner or any other person including respondent nos. 3 and 4 claims to be the settlee or allottee of the Flat in question under the provisions of the six enactments mentioned in Schedule 1 of the Act, 2009.

4. Under the scheme of the Act, 2009 for any dispute either with respect to settlement or allotment or dispossession or any other ancillary dispute occurring under the provisions of the aforesaid six enactments mentioned in schedule 1 of the Act, 2009 a petition under Section 4 of the Act, 2009 can be filed before the competent Authority. Admittedly, dispute between the petitioner and the private respondents with respect to Flat in question does not fall within the ambit of the aforesaid six enactments mentioned in Schedule 1 of the Act, 2009; therefore, the petition filed on behalf of the respondent no.2 before the DCLR, Patna Sadar, the competent authority under the meaning of the Act, 2009, giving rise to Land Dispute Case No. 130 of 2012-13 was completely misconceived and untenable, particularly, in view of the judicial pronouncement made by a Division Bench of this Court in the case of **Maheshwar Mandal and another Vs.The State of Bihar and others [2014 (3) PLJR 281]**.

5. The impugned order dated 18.09.2013 passed by the competent authority in aforesaid Land Dispute Case No. 130 of 2012-13 (Annexure-5), being contrary to the scheme and mandate of the provisions of the Act, 2009 as also being contrary to the judicial pronouncements of a Division Bench of this Court in the case of **Maheshwar Mandal (supra)**, is hereby set aside and quashed. This writ petition thus stands allowed to the extent indicated above. However, the aggrieved party, if so advised, may approach the Civil Court of competent jurisdiction to get his/her/their right, title and possession declared over the Flat in question in accordance with law.

(Birendra Prasad Verma, J)

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