

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.25 of 2014

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Maheshwar Prasad Singh, Son of Late Sudhir Prasad Singh, Resident of 1 number colony , P.O./P.S./District-Katihar. Present Executive Officer, Nagar Parishad, Khagaria. Petitioner

Versus

1. Awadesh Kumar Gupta, son of Late Sudhir Kumar.
 2. Mossomat Reshma Devi, Wife of Late Sudhir Kumar, R/ Mohalla-Hajipur, W.No.17, P.O./P.S./Distirct-Khagaria.
 3. Nagar Sabhapati, Nagar Parishad, Khagaria.
 4. Ward Commissioner, Nagar, Parisahd, R/o Nagar Palika Road, P.O./P.S./District-Khagaria.
 5. Md. Akhtar Hussain, Son of Late Ismail @ Isho, R/o Mohalla-Hajipur W.No.17 P.O./P.S./District-Khagaria. Presently residing at Islampur, P.O.-Mathurapur, P.S.-Muffasil, District-Khagaria. Opposite Parties.
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Appearance :

For the Petitioner/s : Mr. RAKESH CHANDRA
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 24-10-2016

Heard Mr.Rakesh Chandra, learned counsel
appearing for the petitioner.

By the impugned order, the learned court below has
rejected the petition filed by the defendant-petitioner under Order 7
Rule 11(d) C.P.C praying for rejection of the plaint.

It has been submitted by the learned counsel for the
petitioner that the suit was filed by the plaintiff-opposite parties
questioning the legal validity of cancellation of the settlement of the
suit property. It has been propounded that such suit was clearly barred
the provisions of Bihar Government Premises (Rent, Recovery and
Eviction) Act -1956 as no order for cancellation of settlement could



have been challenged before the civil court in view of the alternative relief for filing the appeal as envisaged under the provisions of the said Act. It has been further also argued that the learned court below has passed a cryptic order and has not given cogent reasons for rejection of the petition filed by the petitioner.

In view of the submissions and after the perusal of the impugned order as well as materials on record, it would be fruitful here to take into notice Section 9 of the Bihar Government Premises (Rent, Recovery and Eviction) Act -1956 which reads as follows:-

“No order made or action taken by the State Government or the competent authority in the exercise of any power conferred by or under this Act shall be called in question in any Court and no injunction shall be granted by any Court or other authority in respect of any order made or action taken or to be taken in pursuance of any power conferred by or under this Act.”

It is further also apparent from Section 4 of the said Act which has been placed before this Court for consideration by the learned counsel for the petitioner that it deals with power to evict certain persons from government premises. It could not be shown however before this Court that the aforesaid Act contains any



provision for cancellation of settlement. It is, thus, demonstrably clear that the bar of jurisdiction of civil court as envisaged under Section 9 for entertaining a suit would be operative only with regard to the orders which have been passed strictly in accordance with the provisions of the said Act. In the suit, the plaintiff has challenged the cancellation of settlement and such suit therefore cannot be said to be barred by Section 9 of the aforesaid Act. The next submission on behalf of the petitioner is that the learned court below has not provided cogent reasons before dismissing the petition filed by the petitioner. This Court is not impressed with this submission in view of the fact that the maintainability of the suit was called in question on the solitary ground of bar under Section 9 of the aforementioned Act. In the opinion of this Court that the learned court below has not committed error of jurisdiction or material irregularity in passing the impugned order.

The revision application is, accordingly, dismissed.

However this order shall not prejudice the case of either of the parties during the course of hearing of the suit.

(V. Nath, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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