

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14447 of 2014

With

Interlocutory Application No.4499 of 2016

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Nashimuddin Khan, S/o Late Akil Khan, Resident of Village Mkhadumpur, P.S.
Barachatti, District Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Revenue and Land Reforms, Govt. of Bihar, Patna.
3. The Commissioner Magadh Division, Gaya.
4. The Collector, Gaya.
5. The Additional Collector, Gaya.
6. The Sub-Divisional Officer, Sherghati, Gaya.
7. The Deputy Collector, Land Reforms, Sherghati, Gaya.
8. The Anchal Adhikari, Barachatti, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prahalad Kumar Bhagat, Adv.
For the Respondent/s	:	Ms. Shilpa Singh, GA-12 Mr.Ranjan Kumar, AC to GA-12
For the Intervenor	:	Mr.Suraj Narayan Yadav, Adv. Mr.Nikhilesh Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 06-09-2016

Heard the learned counsel for the petitioner and the learned G.A.-XII appearing on behalf of the respondents. I have also heard the learned counsel appearing on behalf of the intervenor Md.Chand Khan, who has filed I.A.No.4499 of 2016 for his impleadment as party respondent in the present proceeding.

The petitioner, who is a retired Army Personnel, has filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the order dated 24.07.2013 passed in Misc. Case No.6 of 2013 by the respondent District Magistrate, Gaya, as contained in Annexure-7 to the writ petition, whereby, in the light of the order and direction issued by this Court in CWJC No.4757 of 2011 (Md.Chand Khan Vs. State of Bihar

& Ors.), the claims raised on behalf of the petitioner for settlement of government land has been rejected, and thereby earlier settlement made in his favour by Land Settlement Parwana vide Annexure-6 has been impliedly set aside.

It is not in dispute that the petitioner is an Ex-Army Personnel. Accordingly, he filed an application for settlement of certain government land and claimed that he is a landless person. On the basis of the petition filed by the petitioner, an area of 1.99 Acres was settled in favour of the petitioner by the respondent Anchal Adhikari by issuing land settlement parwana as contained in Annexure-6 on the ground that that the petitioner is an Ex-Army Personnel and he is a landless person. The intervenor Md. Chand Khan disputing the claim of the petitioner that he is a landless, and also challenging the action of the authorities of the State government for settlement of government land, which was meant for the use of the common people, filed a PIL before this Court giving rise to CWJC No.4757 of 2011, which was finally disposed of by a Division Bench of this Court by an order dated 31.08.2012, which has been brought on the record as Annexure-I/2 to the I.A.No.4499 of 2016. By the aforesaid order dated 31.08.2012, a Division Bench of this Court, after noticing the objection raised on behalf of the intervenor herein, directed the District Collector, Gaya to examine the matter afresh and dispose of the representation filed by the aforesaid writ petitioner Md. Chand Khan, who is the intervenor in the present proceeding, expeditiously preferably within a period of six months. Since the aforesaid order dated 31.08.2012 passed in CWJC No.4757 of 2011 was not being implemented; therefore, MJC No.2591 of 2013 was filed before this Court.

It is the common case of the parties that, in view of the



aforesaid order passed by a Division Bench of this Court, the matter was taken up by the District Magistrate, Gaya giving rise to Misc. Case No.6 of 2013. An opportunity of hearing was given to the petitioner as also the aforesaid objector Md. Chand Khan, and after considering all the materials produced by the parties and looking into all the relevant records as also the government circulars, the District Magistrate, Gaya has come to a finding that the petitioner is not a landless person, rather he is having more than four acres of lands at his village home. Besides that, he is having some lands in his Sasural. By recording aforesaid findings of fact, the respondent District Magistrate, Gaya has come to a conclusion that the petitioner is not entitled to the benefit of government circulars issued by the government from time to time for settlement of certain government land to a retired Army Personnel, who is landless person.

Though, the learned counsel appearing on behalf of the petitioner has argued the matter at some length, but he has not been able to demonstrate by cogent evidence that the findings recorded by the respondent District Magistrate, Gaya cannot be accepted as valid. He has also not pointed out any procedural error or legal infirmity in the impugned order. He simply stated that the petitioner is coming in possession over the lands allotted to him for quite a long time.

Per contra, the learned G.A.-XII appearing on behalf of the respondents, by referring to the averments made in the counter affidavit filed on behalf of the respondent no.6, submitted that, in fact, the District Magistrate, Gaya has examined the entire materials and has given full opportunity of hearing to the petitioner and thereafter it was recorded that the petitioner is not a landless person, rather he is having substantial area of land; therefore, he cannot be granted benefit of the government circulars. It is next contended that the order

impugned cannot be legally faulted.

The learned counsel appearing on behalf of the intervenor, on the other hand, has submitted that the petitioner is having huge area of land and by committing fraud he had obtained the land settlement parwana (Annexure-6) and, therefore, the District Magistrate, Gaya has rightly rejected his claim and reversed the order of the respondent Anchal Adhikari.

After having heard the parties and taking into consideration the entire factual matrices of the present case available on the record, this Court is of the opinion that, though the petitioner is an Ex-Army Personnel, but he is not a landless person in view of the findings recorded by the District Magistrate, Gaya; therefore, the impugned order passed by him cannot be legally faulted. The entire claim raised on behalf of the petitioner is based on disputed questions of facts.

In above view of the matter, this Court does not feel persuaded to interfere with the impugned order dated 24.07.2013 passed in Misc. Case No.6 of 2013 by the respondent District Magistrate, Gaya, as contained in Annexure-7 to the writ petition.

The writ petition is devoid of merit and is, accordingly, dismissed. However, there shall be no order as to costs. I.A.No.4499 of 2016 also stands accordingly disposed of.

Arvind/-

(Birendra Prasad Verma, J)

AFR/NAFR	NAFR
CAV DATE	N/A
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