

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4895 of 2014

=====

1. Raj Kumar Prasad Singh S/O Late Baleshwar Prasad Singh Resident Of
Village- Ankuri, P.S- Paliganj, District- Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Chairman, The Bihar Land Tribunal, Patna.
3. The Commissioner, Patna Division, Patna.
4. The Deputy Collector, Land Reforms, Cum Competent Authority,
Paliganj, District- Patna
5. Ram Manohar Prasad Singh S/O Late Baijnath Singh
6. Pramod Kumar S/O Sri Ram Manohar Prasad Singh.
7. Vimal Kumar S/O Sri Ram Manohar Prasad Singh All Resident Of
Village- Ankuri, P.O- Ankuri, P.S- Paliganj, District- Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Uday Chand Prasad

For the Respondent/s : Mr. Roy Shivaji Nath

=====

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

3 26-10-2016 Heard Mr. Prasad counsel for the petitioner and the

State.

In relation to a piece of land which is claimed by the
petitioner on the basis of an agreement to sale entered between
him and the seller (respondents herein) a dispute was initially
raised before the Civil Court giving rise to Title Suit No. 12 of
2011 for Specific Performance of the Contract. While the suit was
pending, the petitioner approached the respondent –Deputy
Collector Land Reforms (for short ‘the DCLR’) under the Land
Disputes Resolution Act, 2009 (for short ‘the Act’). The DCLR



not only entertained the application but allowed the same. Aggrieved thereby, the respondents filed appeal vide Land Dispute Appeal Case No. 298 of 2012. On contest, the same was dismissed by the appellate authority. The said order was challenged before the Bihar Land Tribunal (for short 'the Tribunal') vide B.L.T. case no. 186 of 2013. Notice was issued to the petitioner. The petitioner appeared in the said proceeding but did not file any counter affidavit. The Tribunal by the impugned order allowed the application observing as under:-

“4. Petitioner's case is that opposite parties agreed to transfer disputed land in their favour by executing a registered sale deed, received consideration money and also executed a deed agreement to sell the property in favour of the petitioner. Subsequently, they started ignoring the petitioners and avoided execution of sale deed. Petitioners have to file Title Suit No. 12 of 2011 for specific performance of the contract, in order to get sale deed executed in their favour, though the court with respect to disputed land, on the basis of agreement sale dated 28.11.2007. The suit filed by the petitioner is subjudice before the court of Sub-Judge-2, Danapur. Notices have already been issued to opposite parties, but they are evading appearance in the suit with an intention to delay the disposal of the title suit and to get the evidences disappear with the passage of the time. Opposite parties, with a design, filed an application under the provision of Bihar Land Dispute Resolution Act, in order to get a favourable order in their favour and to use it as an evidence in the pending title suit. The D.C.L.R. Paliganj,

Patna entertained such application and committed serious error of jurisdiction, since such an application was not maintainable in terms of Section 4(G) of the B.L.D.R. Act. The Appellate authority, Divisional Commissioner, Patna, affirmed the order passed by the D.C.L.R. completely ignoring the legal aspect of the matter.

5. Opposite parties entered appearance but did not file any counter affidavit contradicting statement made by the petitioner in this application. Accordingly, this application is decided by the parties. I find much subsistence submission made by the petitioner's counsel that the application filed by the opposite party, D.C.L.R. Paliganj, Patna should not have entertained against the provision under Section 4(G) of the Bihar Dispute Resolution Act.”

Upon hearing Mr. Prasad in support of the writ application and the State, this Court is unable to find any patent illegality in the order passed by the Tribunal. The suit is pending before the Court at the instance of the petitioner himself. The decision rendered therein would decide the right, title of the parties in relation to the subject land.

The application is dismissed.

(Kishore Kumar Mandal, J)

Shyam/-

U			
---	--	--	--