

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19291 of 2012

=====

Md. Reza, Son Of Abdus Shami, Resident Of Village- Singachowry, Post
Office- Boodh Nagra, Police Station- Nanpur, District- Sitamarhi

.... Petitioner/s

Versus

1. The State Of Bihar through District Magistrate, Sitamarhi
 2. The District Magistrate, Sitamarhi
 3. Sub Divisional Magistrate, Pupri, District- Sitamarhi
 4. Land Reforms Deputy Collector, Sitamarhi
 5. Circle Officer, Bokhara, District- Sitamarhi
 6. Revenue Karamchari, Panchayat Singachowry, Anchal- Bokhara,
District- Sitamarhi
 7. Dukhiya Devi, Wife Of Parmeshwar Sahi
 8. Gulab Ram, Son Of Dayal Ram
 9. Indra Kala Devi, Wife Of Sanjay Ram
 10. Bage Lall Pasi, Son Of Baleshwar Sahni
 11. Golia Devi, Wife Of Deep Lall Ram
 12. Paghlu Ram, Son Of Jutu Ram
 13. Kewal Ram, Son Of Sorikh Ram
 14. Gum Lall Ram, Son Of Wisekh Ram
 15. Akhilesh Pasi, Son Of Ram Chandra Pasi
 16. Phoolan Kumar, Son Of Yogendra Ram
 17. Mosmat Dhano Devi, Wife Of Late Nageshwar Ram
- Sl.No. 7 to 17 are Resident Of As Per Allege Village- Singachowry, Post
Office- Boodh Nagra, Police Station- Nanpur, District- Sitamarhi

.... Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Mannan Khan, Adv. Mr. Mazharul Hassan, Adv.
For the Respondent nos.1to6	:	Mr. Nirbhay Kr.Singh, GP-26
For the Respondent nos.7to17	:	Mr.Ashok Kumar Jha, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

6 04-02-2016

Heard the parties.

The petitioner is aggrieved by the order dated 17.11.2011 passed in Land Settlement Case No.7 of 2011-12 by the respondent D.C.L.R., Pupri, as contained in Annexure-5 to the writ petition, whereby and whereunder on the basis of the recommendation made by the respondent Circle Officer, Bokhara in the district of Sitamarhi the lands in question bearing R.S.

Khata No.942 appertaining to R.S. Plot No.2483 situate at village Singchowry have been settled in favour of the private respondent nos.7 to 17.

The learned counsel appearing on behalf of the petitioner submits that the lands in question were originally settled in favour of one Ram Autar Mahto by the ex-landlord, who subsequently transferred the lands in question in favour of one Magfoor Ahmad @ Jaan, the ancestor of the petitioner, by executing a registered sale deed dated 12.09.1962. It is further contended that in the consolidation proceeding the lands in question have been directed to be recorded in the name of the ancestor of the petitioner vide order contained in Annexure-3. It is also claimed that the ancestor of the petitioner or after their death the petitioner has been coming in possession over the lands in question and the land possession certificate was also issued in favour of the petitioner, which has been brought on record as Annexure-4 series.

While assailing the impugned order, as contained in Annexure-5 to the writ petition, the learned counsel appearing on behalf of the petitioner raised various issues of facts and law regarding the lands in question. Apart from the merit, it is contended that the impugned order dated 17.11.2011 is liable to be quashed and set aside by this Court on the ground of infraction of rules of natural justice. It has specifically been pleaded that no notice was ever given to the petitioner or his ancestor before passing the impugned final order.

The matter has been contested by the respondents by filing their separate counter affidavits. The learned GP-26 appearing on behalf of the official respondents submits that a

general notice was issued, but no objection was filed by anyone including the petitioner. Therefore, the lands in question were settled in favour of the private respondent nos.7 to 17.

The learned counsel appearing on behalf of the private respondent nos.7 to 17 has submitted that part of the plots in question was settled in favour of some other persons, but that was not challenged by the petitioner. Therefore, it cannot be said that the lands in question belongs to the petitioner.

After having heard the parties and on consideration of the materials available on the record, this Court finds that though a general notice was issued by the Circle Officer by an order dated 03.06.2011, but, on going through the records, this Court does not find that notice was ever served upon the petitioner or his ancestor. In fact, nobody else excepting the claimants was heard. From the documents, as contained in Annexure-2, i.e., sale deed as also the order as contained in Annexure-3 passed by the Consolidation Officer, prima facie this Court finds that the petitioner was having his claim over the lands in question; therefore, he ought to have been given an opportunity of hearing, but that has not been done in the present case. Therefore, rules of natural justice have not been followed by the respondent authorities before passing the impugned final order.

For the reasons recorded above, this Court is of the opinion that the matter requires reconsideration and fresh decisions after following the rules of natural justice. Accordingly, the impugned order dated 17.11.2011 passed in Land Settlement Case No.7 of 2011-12 by the respondent D.C.L.R., Pupri, as contained in Annexure-5 to the writ petition, is hereby set aside and quashed and the matter is remitted back to the respondent

D.C.L.R., Pupri with a direction to decide the aforesaid case afresh after giving an opportunity of hearing to the petitioner, the private respondent nos.7 to 17, besides others, if any.

In order to expedite the matter, the petitioner as also the respondent nos.7 to 17 are hereby directed to appear before the respondent D.C.L.R., Pupri within a period of one month from today with a certified copy of the present order, whereafter the respondent D.C.L.R., Pupri shall proceed to decide the matter afresh strictly in accordance with law, but, before passing any final order, an opportunity of hearing must be given to all concerned.

The parties shall be at liberty to raise all the issues of facts and law before the respondent D.C.L.R., Pupri with respect to the lands in question, which may be available to them.

The writ petition stands allowed to the extent indicated, but with the observations and directions made above. However, the parties are left to bear their own costs.

(Birendra Prasad Verma, J)

Arvind/-

U			
---	--	--	--