

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9012 of 2016

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Ashiya Khatoon D/o Mohammad Kasim Resident of village Fataha, P.S.
Gopalganj, District Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar through Collector Gopalganj.
2. The District Magistrate cum Collector, Gopalganj.
3. The Deputy Collector Land Reforms, Gopalganj District Gopalganj.
4. The Circle Officer, Thawe, District Gopalganj.
5. The Secretary, Bhoodan Yagya Committee, Village/Mohalla Arrar More, P.S.
Gopalganj District Gopalganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ratan Kumar Sinha

For the Respondent/s : Mr. GP13- NASIM YAHYA

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

ORAL JUDGMENT

Date: 26-04-2017

Counter affidavit is filed on behalf of the State.

2. Heard learned counsel for the petitioner as well as
learned counsel for the State.

3. The petitioner has filed this writ petition for quashing
the order dated 02.02.2016 passed by the learned Collector, Gopalganj
(Respondent No.2), in Mutation Revision Case No.06 of 2016, by
which the learned Collector, Gopalganj (Respondent No.2), dismissed
the aforesaid Mutation Revision Case No.06 of 2016, holding that the
aforesaid Mutation Revision Case is not maintainable before him.

4. The petitioner raised dispute before the DCLR,



Gopalganj (Respondent No.3) under Section 4 of Bihar Land Disputes Resolution Act, 2009, on the ground that 5 kathas 2 dhurs land of Khesra No. 113, appertaining to Khata No. 91, of village Fatua, District- Gopalganj, was the property of Hatua Estate but after Jamindari abolition, the aforesaid land was gifted to Bhoodan Yagya Committee, who, later on, issued certificate to the petitioner in respect of 3 decimals of land and, thereafter, petitioner came in possession over the aforesaid land and jamabandi was created in her name but, subsequently, the aforesaid land was declared as a public land, which was challenged by the petitioner and 5 decimals of land was declared as public land. Thereafter, the petitioner made complaint to the Chairman of the Bihar Bhoodan Yagya Committee, Patna, who directed the Chairman of the District Bhoodan Yagya Committee, Gopalganj, to settle the aforesaid disputed land to the petitioner and, thereafter, the concerned authority with relevant documents sent the matter to the Circle Officer, Thawe, Gopalganj (Respondent No.4). The Circle officer, Thawe, Gopalganj (Respondent No.4), recommended the claim of the petitioner to the Deputy Collector Land Reforms, Gopalganj (Respondent No.3) vide his report dated 05.08.2014 mentioning in his report that 5 decimals land is being used as Gaddha and Rasta. The learned DCLR, Gopalganj (Respondent No.3) vide order dated 03.12.2015 dismissed the claim of the



petitioner and against the aforesaid order of the DCLR, Gopalganj (Respondent No.3), the petitioner filed Mutation Revision Case No. 06 of 2016 which was dismissed being not maintainable by the learned Collector, Gopalganj (Respondent No.2) passing the impugned order.

5. It is relevant to mention here that Section 14 of the Bihar Land Disputes Resolution Act, 2009, says that any party, aggrieved by the order passed by the competent authority, may file an appeal before the commissioner within a period of 30 days and, therefore, the aforesaid provision goes to show that the order passed by the competent authority is appealable order and the appeal should be filed before the Commissioner against the order passed by the competent authority and, therefore, in my view the Collector, Gopalganj (Respondent No.2), has rightly held that Mutation Revision Case No.06 of 2016 is not maintainable before him as the said Mutation Revision Case No. 06 of 2016 has been filed against the order dated 03.12.2015 passed by the competent authority in Bihar Land Disputes Resolution Case No.42 of 2014-15.

6. In my view, this writ petition does not have any merit and is liable to be disposed of. Accordingly, this writ petition stands disposed of.

7. However, the petitioner may file an appeal before the



Commissioner against the order dated 03.12.2015 passed by the learned DCLR, Gopalganj(Respondent No.3) in Bihar Land Dispute Resolution Case No. 42 of 2014-15, if she is so advised, and, furthermore, it is made clear that if an appeal is filed before the learned Commissioner by the petitioner under section 14 of the above stated Act, the Commissioner may condone the delay in filing the appeal taking note of this fact that the petitioner was pursuing the dispute before the wrong forum.

(Hemant Kumar Srivastava, J)

N.K/-

AFR/NAFR	NAFR
CAV DATE	NAFR
Uploading Date	01.05.2017
Transmission Date	01.05.2017

