

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4843 of 2015

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1. Bhim Kewat @ Choba Kewat Son of Late Gorakh Kewat resident of Village-
Nauranga, P.S and Anchal- Bind, District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate- cum- Collector, Nalanda at Biharsharif.
3. The Director, Fishery and Animal Husbandry Department Govt. of Bihar.
4. The District Fishery Officer - Cum- Chief Executive Officer, Nalanda., at Biharsharif
5. The D.C.L.R Biharsharif at Bihar sharif (Nalanda)
6. The Circle Officer, Bind, District Nalanda, At Anchal- Bind.
7. Rekha Devi, the Secretary, Bind Prakhand Matsyajibi Sahyag Samiti Ltd. Bakra, Anchal, Bind District Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar

For the Respondent/s : Mr. M.K. SINGH- SC6

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

ORAL JUDGMENT

Date: 17-05-2017

1. Supplementary affidavit is filed on behalf of the petitioner.

2. Heard learned counsel for the petitioner, learned counsel for the State as well as learned counsel for respondent no.7.

3. Petitioner has prayed for quashing the letter no. 474 dated 12.7.2013 issued under the signature of the Circle Officer, Bind District Nalanda by which and whereunder he transferred plot nos. 1513, 1436 and 1652 appertaining to khata no. 512 of village Bishunpur within Bind Anchal to the fishery department, Nalanda and furthermore, for quashing the consequential orders issued by respondent authorities pursuant to letter no. 474 dated 12.7.2013 and



also for issuance of command to respondents not to interfere with the possession of the petitioner over plot nos. 1513 and 1436 of khata no. 512.

4. The claim of the petitioner is only in respect of plot nos. 1513 and 1436 of khata no. 512 of village Bishunpur within Bind Anchal district Nalanda.

5. Petitioner claims that ex-landlord transferred the lands of the aforesaid plots by issuance of Hukumnama in favour of one Aklu Mahto some time in the year 1919. Subsequently, the aforesaid Aklu Mahto executed an unregistered sale deed of plot no. 1436 in the year 1925 in favour of father of the petitioner and father of the petitioner came in possession of the aforesaid plot. At the time of vesting of zamindari, ex-landlord filed return showing the petitioner to be settlee of the aforesaid plot no. 1436. So far as plot no. 1513 is concerned, the petitioner claims that son of Aklu Mahto gifted the aforesaid land to the petitioner on 15.2.1990 by executing registered gift deed. However, petitioner received notice issued by the Circle Officer, Bind on 2.12.2014 in respect of both the aforesaid plots as someone had raised objection against fishing of the petitioner from the aforesaid plots. Petitioner appeared before the Circle Officer, Bind and produced all the relevant documents claiming his right, title and possession in respect of both plots. The Circle Officer, Bind sent the matter to the DCLR, Bihar Sharif who vide letter no. 272 dated 11.2.2015 remitted the matter back to the Circle Officer, Bind for further action after giving opportunity of hearing to the concerned parties but while the aforesaid matter was pending before revenue



official, District Fisheries Officer issued parwana to the Secretary, Bind Prakhanda Matsyajibi Sahyag, Samiti Ltd, Bakra Anchal, Bind District Nalanda (respondent no.7) giving fishing right to the Committee over the aforesaid plots and some other plots. It is also pertinent to note here that in the meantime, on 12.7.2013 the Circle Officer, Bind transferred the aforesaid lands to District Fisheries officer and ordered that the aforesaid lands to be entered in sairat register.

6. The contention on behalf of the petitioner is that the Circle Officer, Bind had got no power to transfer the aforesaid lands to district fishing department and also to pass order in respect of entry of the aforesaid plots in sairat register.

7. Learned counsel appearing for the petitioner submits that similar question arose in C.W.J.C. no. 6170 of 2013 and a coordinate bench of this court directed the Principal Secretary, Revenue department to disclose the process by which any land of one department could be transferred to another department and the Principal Secretary filed counter affidavit in the aforesaid C.W.J.C. no. 6170 of 2013 disclosing that on the recommendation of the concerned District Collector, Cabinet takes decision of transferring any land from one department to another department. Learned counsel for the petitioner further submits that in the present matter the aforesaid procedure has not been adopted rather the concerned Circle Officer directly transferred lands to fisheries department which is illegal as well as against the established procedure of the State and, therefore, letter no. 474 dated 12.7.2013 annexed as annexure 9 to the



petition can not stand in the eye of law. It is also submitted on behalf of the petitioner that if letter no. 474 dated 12.7.2013 is declared as illegal, the consequential orders passed by the authorities pursuant to the aforesaid letter are also illegal and, therefore, not only letter no. 474 dated 12.7.2013 but also other consequential orders are liable to be quashed.

8. On the other hand, learned counsel appearing for the State submits that the petitioner had no title over the disputed plots and, therefore, he has no right to challenge the letter issued by the Circle Officer, Bind.

9. So far as learned counsel appearing for respondent no.7 is concerned, he submits that Parwana has legally been issued to respondent no.7.

10. It is an admitted position that annexure 9 has been issued by the Circle Officer, Bind without any approval of the Cabinet and what to say about the sanction and approval of the cabinet, the concerned CO did not even take pain to bring the aforesaid letter into the notice of the concerned Collector. However, when the DCLR, Bihar Sharif remitted the matter back to the Circle Officer for fresh consideration after giving opportunity of hearing to the concerned parties, the Circle Officer, Bind ignored the direction of the DCLR, Bihar Sharif and issued letter no. 474 dated 12.7.2013 against the established procedure of the State. Therefore, in my view, letter no. 474 dated 12.7.2013 has no legal sanctity and liable to be quashed. So far as question of title of the parties is concerned, this court can not decide the question of title and if any of the parties wants to get his



right and title decide, the concerned party may approach the competent civil court for proper relief.

11. On the basis of the aforesaid discussions, letter no. 474 dated 12.7.2013 (annexure 9) is, hereby, quashed and pursuant thereto all consequential orders issued by respondent- authorities in view of letter no. 474 dated 12.7.2013 are also quashed.

12. In the aforesaid manner, this writ petition stands disposed of.

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(Hemant Kumar Srivastava, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.5.2017
Transmission Date	20.5.2017

