

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.393 of 2005

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Sharwan Kumar Saha @ Sharwan Kumar Sah son of Late Anoop Sah resident of
village Maniyarpur PS Bidupur District Vaishali

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. NARESH CHANDRA VERMA

For the Respondent/s : Mr. AC to GP IX

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

ORAL JUDGMENT

Date: 07-02-2017

1. Heard learned counsel for the petitioner, learned counsel
for respondent no. 3 as well as AC to learned GP IX.

2. The case of the petitioner is that old plot nos. 993, 906,
907, 908, 909 were settled to him by the Collector, Vaishali as the
petitioner was a defence personnel but subsequently, the Collector,
Vaishali in a rent fixation case of respondent no. 3 cancelled the
settlement of the petitioner. Further case of the petitioner is that
against cancellation order, petitioner came before this court and filed
CWJC no. 12010/1996 which was subsequently withdrawn by the
petitioner with liberty to file modification petition before the
Collector. Thereafter, petitioner filed modification petition before the
Collector, Vaishali but the Collector, Vaishali, without making any
enquiry and without perusing the lower court record, rejected the
modification petition vide order dated 5.7.2003 passed in Misc. Case
no. 132/2000-2001.

3. It is admitted case of respondent no. 3 that she had



purchased old plot no. 994 from one Sk. Habibur Rahman who had taken the aforesaid land on settlement from ex-landlord.

4. The aforesaid fact goes to show that both parties are claiming their right, title and possession in respect of different lands but even then the aforesaid controversy is not being removed by the concerned authority. Moreover, in course of hearing, learned AC to GP IX submitted that this matter should be remanded back to the Collector, Vaishali for a fresh and proper enquiry because the impugned order dated 5.7.2003 is non-speaking order.

5. In view of the aforesaid facts and circumstances as well as submissions of the parties, the impugned order dated 5.7.2003 passed by the Collector, Vaishali in Misc. Case no. 132/2000-2001 is hereby, set aside and the matter is sent back to Collector, Vaishali with direction to him to make a fresh enquiry in respect of above stated dispute of the parties within three months from the date of receipt/production of a copy of this order. It is made clear that while making the aforesaid enquiry, the Collector, Vaishali shall peruse the lower court record as well as cadastral survey map and revisional survey map so that the dispute of the parties could be decided in a proper way.

Shahid

(Hemant Kumar Srivastava, J)

AFR/NAFR	
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