

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17529 of 2011

=====

Lahawar Choudhary Son Of Late Bachchan Choudhary R/O Villaae-Majirwa
Kala,Police Station,Phulwaria,Distt-Gopalganj.

.... Petitioner/s

Versus

1. The State Of Bihar Through The Collector,Gopalganj,District Gopalganj.
2. The Incharge Deputy Collector,District-Public Griveance Cell District Gopalganj.
3. The Anchal Adhikari,Phulwaria,District Gopalganj.
4. Bihar Bhudan Yagna Committee,Through Its Chairman Congress Maidan,Kadam Kuan,Patna Distirt-Patna.
5. Ramesh Upadhaya Son Of Late Sudama Upadhaya R/O Village- Maijirwa Kala,Ps-Phulwaria,Distt-Gopalganj.

.... Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Dhananjay Kumar
For the Respondent/s	:	Mr. Niraj Kumar Sinha AC to AAG-2
For Bhoodan Yojana Committee :		Mr. Ashok Kumar
		Mr. Ram Chandra Lal

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL JUDGMENT
Date: 09-05-2017

Heard learned counsel for the petitioner as well as learned
AC to AAG-2 for the State and learned counsel for the Bihar
Bhoodan Yogna Committee.

2. The petitioner has sought relief for issuance of direction
commanding the respondents to restrain themselves from
dispossessing him from Khata No. 363, plot no. 948 situated at village
Majirwa Kala, P.S- Phulwaria, District- Gopalganj and also for
issuance of direction to the Collector, Gopalganj, to hear the objection



of the petitioner in the light of order passed in C.W.J.C. No. 9238 of 2006.

3. The brief fact of the present dispute seems to be a piece of land of Khata no. 363, which is said to be donated to Bihar Bhoodan Yojna Committee by its owner. Subsequently, it is alleged that 36 decimals of land of the aforesaid Khata no. 363 was settled with the respondent no. 5 by the Bihar Bhoodan Yojna Committee under the relevant provisions of Bihar Bhoodan Yojna Act, 1952. However, the respondent no.5 gave a petition in Janta Darbar praying therein for ejectment of encroachers from the aforesaid land. The aforesaid petition of respondent no.5 was disposed of by the concerned authorities and, after that, respondent no.5 filed C.W.J.C. No. 9238 of 2006 before this Court. The aforesaid C.,W.J.C. No. 9238 of 2006 was disposed of by a co-ordinate Bench of this Court vide order dated 06.02.2008, directing the Collector, Gopalganj, to personally examine the matter and pass appropriate order in terms of Section 14A read with Section 22 of Bihar Bhoodan Yojna Act, after giving proper notice to private respondent nos.8, 9 and 10 of the aforesaid C.W.J.C. No. 9238 of 2006. It is pertinent to note that the petitioner of the present writ petition was respondent no.10 in the aforesaid C.W.J.C. No.9238 of 2006. In pursuant to the aforesaid order dated 06.02.2008 passed in CWJC No. 9238 of 2006, the



Collector, Gopalganj, inquired into the matter and having heard the concerned parties directed the D.C.L.R., Hathua to make determination under section 21 of the Bhoodan Yojna Act 1952. The D.C.L.R., Hathua, having received the direction of the Collector, Gopalganj, passed the order dated 05.09.2013, directing the concerned authorities to ensure the possession of respondent no.5 over the disputed lands. In compliance of order dated 05.09.2013 passed by the D.C.L.R., Hathua, the petitioner was dispossessed on the very next day of passing the order dated 05.09.2013.

4. Learned counsel appearing for the petitioner submits that the Collector, Gopalganj, while making inquiry in Miscellaneous Bhoodan case No. 01 of 2004, came to conclusion that no settlement was made in favour of respondent no. 5 by the Bihar Bhoodan Yojna Committee and, furthermore, the Collector, Gopalganj, also came to definite conclusion that the petitioner was in possession of some portion of disputed lands but, even then, the D.C.L.R., Hathua without making proper inquiry, directed the concerned authorities to dispossess the petitioner from the disputed lands. He further submitted that the petitioner had been coming in possession over the certain portion of the disputed lands since time immemorial and, moreover, the Bihar Bhoodan Yojna Committee subsequently, recommended the settlement of 15 decimals of land to the petitioner but the learned



D.C.L.R. having ignored all the aforesaid facts passed the order of ejectment of the petitioner from the disputed land.

5. On the other hand, learned counsel appearing for the Bihar Bhoodan Yojna Committee pointed out that before the D.C.L.R., Hathua, the officials of Bihar Bhoodan Yagna Committee appeared and produced the documents showing the settlement of land to the respondent no. 5 and very specifically stated before the D.C.L.R., Hathua, that they could not find any document showing the settlement of the disputed plot with the petitioner and, therefore, the learned D.C.L.R. rightly passed the order for ejectment of the petitioner from the disputed plot.

6. The order dated 05.09.2013 passed by the D.C.L.R., Hathua, in Bhoodan Case No. 36/12-13 goes to show that the D.C.L.R., Hathua, passed the aforesaid order treating the petitioner as trespasser and Section 22 of the Bihar Bhoodan Yojna Committee Act shows that revenue authority has jurisdiction to pass order of ejectment against those persons who have illegally occupied the lands, which have already been donated under Bihar Bhoodan Yangya Committee.

7. No doubt, the Collector, Gopalganj, found the petitioner in possession over the disputed plot but, in my view, there is no illegality in the order of the learned D.C.L.R.. Hathua, because



he has complied the direction of this Court as well as the direction of the Collector, Gopalganj and, therefore, in my view, this writ petition does not have any merit.

8. On the basis of aforesaid discussions, this writ petition stands disposed of .

9. However, it is made clear that observation given in this order shall not affect the right of the petitioner if he knocks the door of the appropriate forum for seeking appropriate reliefs.

(Hemant Kumar Srivastava, J)

N.K/-

AFR/NAFR	NAFR
CAV DATE	NAFR
Uploading Date	11.05.2017
Transmission Date	11.05.2017

