

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.90 of 2006

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Paramhansh Sharma, son of late Brahmeshwar Sharma, resident of village-Dumaigarh, P.S.-Manjhi, District- Saran.

... .. Petitioner/s

Versus

1. The State Of Bihar through the District Magistrate-cum-Collector, Saran at Chapra.
2. The District Magistrate-cum-Collector, Saran at Chapra.
3. The Circle Officer, Manjhi, Saran.
4. Bishwakarma Sharma, son of Sheo Nath Sharma, resident of village-Dumari Ghat, P.S.- Manjhi, District- Saran.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Dr. Rajesh Kumar Singh, Advocate Mr. Anant Kumar Bhaskar, Advocate Mr. Sanjay Kumar Jha, Advocate
For the Respondent/s	:	Mr. Syed Hussain Majeed, AC to SC-6

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)

Date : 01-09-2017

A fresh Vakalatnama is filed on behalf of the petitioner. Let it be kept on record.

Heard parties.

The petitioner seeks review of the order dated 31.03.2006 passed in L.P.A. No.1215/2004 by which appeal was allowed, order of the learned Single Judge was set aside and the order passed by the Collector in exercise of power under Section 21 of the Bihar Privileged Persons Homestead Tenancy Act (hereinafter referred to as the 'Act') was also quashed and the matter was



remitted back to the Collector to decide it afresh in accordance with law.

Learned counsel for the petitioner has made endeavour to demonstrate before us that the process of service of notice was erroneous and, as such, it has to be deemed that no notice was served upon him. It is contended that upon refusal, the notice was required to be affixed in the house concerned but the same is stated to be done but nobody has identified such action. The office has reported that the respondent has refused to accept the notice.

Be that as it may, we have heard him today on merit and a simple question was asked that even if assuming that *parcha* was wrongly issued in the name of Bishwakarma Sharma and that was required to be cancelled by the Collector exercising its power under Section 21 of the Act, before cancellation, a notice was required to be issued and served upon the person who was going to be affected by such order being passed by the Collector or not? The answer has to be in affirmative. The Division Bench has held that notice was not issued and order was passed in violation of the principles of natural justice and, as such, the order was set aside in the year 2006 itself and the Collector was directed to decide the issue afresh, this Court is unable to understand as to how such order is offending the petitioner?



Since the petitioner has miserably failed to demonstrate from the record that notice was served upon the writ petitioner-appellant, namely, Bishwakarma Sharma before his *parcha* was cancelled by the Collector exercising his power under Section 21 of the Act, we do not find any irregularity or fault which is apparent on the face of record in the order passed by the Division Bench by which the order concerned has been set aside and matter has been remanded to the Collector for fresh decision.

Accordingly, this review application is dismissed.

The Collector, Saran at Chapra is directed to decide the issue after giving reasonable opportunity to all the concerned parties within a period of three months from the date of receipt/production of a copy of this order, if the same has already not been done.

(Dr. Ravi Ranjan, J)

(S. Kumar, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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