

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.971 of 2014
IN
Civil Writ Jurisdiction Case No. 18219 of 2011**

- =====
1. The State of Bihar
 2. The Collector, Nalanda at Biharsharif
 3. The Deputy Collector Land Reforms, Hilsa, Nalanda
 4. The Commissioner, Patna Division, Nalanda
 5. The Circle officer, Parbalpur, Nalanda
 6. The Circle Inspector, Parbalpur, Nalanda

.... Appellant/s

Versus

1. Satyendra Nath Sharma son of Late Bhola Nath Sharma Resident of Vill May, P.S. Parbalpur, Distt. - Nalanda

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ajay Behari Sinha, GA 8
Mr Upendra Kumar Singh, AC to GA 8
Ms Kalpana, AC to GA 8

For the Respondent/s : Mr. Sanjay Prasad

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 08-05-2017

The Court fails to understand as to why the State would not protect its interest when it is required to do so. If the effort on the part of the State is only to show that they have tried to fight the legal battle and they want a seal of dismissal by the High Court then they have succeeded.

Writ application filed on behalf of the sole private



respondent was allowed and the order of the LRDC dated 01.06.2011, which had reaffirmed the decision of the Circle Officer dated 23.03.2010 refusing to mutate the name of the erstwhile appellant, was held to be bad in law.

From the narration in the impugned order it is evident that about 80 decimals of land situated in Village May, PS Parbalpur in the District of Nalanda was settled by the ex-landlord to the ancestors of the petitioner as far back as in the year 1938. They have been filing their returns and they have continued to be in occupation of the land but when their possession came to be threatened, they moved a suit, which was finally decreed in their favour and effort on the part of the State by filing a second appeal failed.

With this kind of background merely because the State takes a plea that it is a *Gair Majarua Aam* land, therefore, no settlement could be done is a misplaced kind of submission because if the land had not vested in the State and this settlement was made many many years ago even before the Zamindari Act came into play coupled with the declaration made in Title Suit No.227 of 1961, there is no scope now for argument. The learned Single Judge has allowed the writ application by relying on an earlier decision of the Patna High Court in the case of **Musammat Husanbano v. the State of Bihar &**



another, reported in 1959 BLJR 310.

This is a frivolous attempt on the part of the State to assail the order of the learned Single Judge, which does not suffer from any infirmity.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

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