

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18733 of 2016

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Sudhir Kumar Singh son of Shri Jitendra Mohan Singh, resident of Village-Sonepur Pakkaghar, P.O. & P.S. Sonepur, District Saran.

.... Petitioner

Versus

1. The State of Bihar through the Collector, Saran at Chapra.
2. The Principal Secretary, Tourism Department, Bihar, Patna.
3. The Senior Deputy Collector District Revenue Section, Chapra.
4. The Sub-Divisional Officer, Sonepur.
5. The Circle Officer, Sonepur, District Saran.

.... Respondents

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Appearance :

For the Petitioner : Mr. Satyabir Bharti, Adv.
Mr. Alok Chandra, Adv.
For the State : Mr. Kumar Manglam, AC to SC-24

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

ORAL JUDGMENT

Date: 28-02-2017

Rejoinder on behalf of the petitioner to the counter affidavit is filed.

Heard learned counsel for the petitioner as well as learned AC to SC-24.

Petitioner has filed this writ petition for issuance of direction to respondents to identify the area of Sonepur Gairmazarua Mela as also Sonepur Bakasth Land Mela and furthermore, for issuance of allotment order (Parwana) and handing over vacant possession of settled lands to him. The petitioner has prayed alternatively for refund of deposited amount with interest.



It is not in dispute that an advertisement was published on 22.02.2016 inviting application for settlement of Sonapur Gairmazarua Mela and several other Sairats. It is also not in dispute that petitioner participated in the aforesaid bid and being highest bidder deposited Rs. 70,001/- as well as registration fee as Rs. 7,000/- but neither Parwana was issued to him nor physical possession of settled land was given to him. Furthermore, it is an admitted position that again an advertisement on 20.10.2016 was published inviting application for settlement of Sonapur Bakasth Land Mela and petitioner not only participated but being highest bidder of the aforesaid bid deposited Rs. 1,61,151/- but he did not get possession nor parwana in respect of the aforesaid settled land. The petitioner filed several petitions before the competent authorities for identification and getting possession of settled land but all went in vain. The petitioner also filed petition under Right to Information Act asking about the identity of the settled land but he did not get any proper reply. Thereafter, petitioner has come before this Court.

Two separate counter affidavits have been filed. First counter affidavit has been filed on behalf of the respondent no. 4 and 5 whereas second counter affidavit has been filed on behalf of respondent no. 1. Reply to the aforesaid counter affidavits have been filed by the petitioner.



Respondents no. 1, 4 and 5 admitted in their counter affidavit that settlement was made in favour of the petitioner but Parwana was not issued. Respondents no. 1, 4 and 5 took stand that prior to the settlement in question, the settlement of Sonapur Mela had been made in favour of the petitioner and petitioner was well known to the lands of Sonapur Mela. Further stand of the aforesaid respondents is that petitioner collected rents from the shopkeepers of the concerned Mela but taking advantage of non issuance of Parwana, he filed the present writ petition. It has also been pleaded by the respondents that concerned Circle Officer was directed by the higher officials to issue Parwana in favour of the petitioner but unfortunately, Parwana could not be issued as the practice of non issuance of Parwana was prevalent in earlier years.

Learned counsel appearing for the petitioner submits that admittedly, the settlement period has already elapsed and, therefore, now petitioner is only interested in return of his deposited amount with genuine interest on the aforesaid deposited money. He further submitted that petitioner has specifically denied in his rejoinder that prior to settlement in question, no settlement had been made either in favour of petitioner or in favour of his family members and so far as question of rent and issuance of rent receipt is concerned, the same has also been specifically, denied in rejoinder.



On the other hand, learned AC to SC-24 appearing for the State refuted the above stated submissions arguing that it was prevalent practice to settle the lands of 'Mela' and the settlee used to take possession of the lands of Sonepur Mela because the lands were scattered and after taking possession, the concerned settlee used to collect rent and issue rent receipts to the shopkeepers. It is further submitted by him that in the present case also, after settlement petitioner started collecting rents from the shopkeepers and issued rent receipts to them because petitioner being a local person was aware about the lands on which the Sonepur Mela was going to be held but I am unable to accept the contention of learned AC to SC-24 because admittedly, no Parwana had been issued in favour of the petitioner even after settlement and if it is assumed that petitioner was collecting rent from the shopkeepers even without issuance of Parwana in his favour, then also, it was failure of the local administration because petitioner had no right to collect rent from the shopkeepers without issuance of Parwana or without identification of the lands and the concerned authorities failed to prevent the petitioner from doing so.

The deposit of amount or non issuance of Parwana is an admitted position and the period of settlement has already been elapsed and, therefore, in the aforesaid circumstance, I have no option except to direct the respondent no. 1 to return the deposited amount



with interest of 10 % from the date of its deposit till realization to the petitioner within a month from the date of receipt/production of copy of this order.

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

(Hemant Kumar Srivastava, J)

SHAHZAD/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	09.03.2017
Transmission Date	N.A.

