

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11403 of 2010

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Amarendra Singh & Ors

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sharan Kumar
Mr. Dinesh Malraj
Mr. Satish Kumar Singh
For the Respondent/s : Mr. Alka Verma

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR

SRIVASTAVA

ORAL JUDGMENT

Date: 12-07-2017

Heard learned counsel for the petitioners as well as learned counsel appearing for the State.

2. No one appears on behalf of the private respondents. Originally, this petition was filed by the petitioners namely, Bishundeo Singh and Hardeo Singh who challenged the order dated 19.04.2010 passed by Additional Collector cum-Charge officer (settlement) Saharsa under section 108 of Bihar Tenancy Act in Revision Case no. 07 of 2005 by which and whereunder he dismissed the aforesaid revision but during pendency of this petition both the original petitioners died and their legal representative were substituted.

3. Original petitioners namely, Bishundeo Singh and Hardeo Singh and some others filed Title suit no. 13422 of 1986 in the court of revenue officer for correction of area and some other entries in respect of plot no. 1142 -1143. The claim of original petitioners was allowed by revenue officer vide order dated 22.02.2006 and, accordingly, decree was passed. However, one Bibi Ainul Nisha also filed a suit bearing Title suit no. 11465 of 1986 in the court of revenue



officer, Saharsa for correction of area and entry of plot nos. 1142 and 1143 and some other plots. During pendency of the aforesaid suit no. 11465 of 1986, some other persons also filed intervention petition and their prayer was allowed and, accordingly, they were also added parties to the aforesaid suit. However, vide order dated 09.07.2003, the revenue officer allowed the claim of Bibi Ainul Nisha and others in Title suit no. 11465 of 1986 and accordingly, directed for correction of entries of several plots including plot nos.1142 and 1143. The original petitioners challenged the order dated 09.07.2003 passed in Title suit no. 11465 of 1986 before the Additional Collector, Saharsa, in Revision Case no. 07 of 2005 but the learned Additional Collector, Saharsa, dismissed the aforesaid Revision passing the impugned order dated 19.04.2010.

4. Learned counsel appearing for the petitioners submits that the original petitioners were not made party to the title suit no. 11465 of 1986 nor any notice was issued to them in the aforesaid case before making correction in respect of plot nos. 1142 and 1143. He further submitted that the learned Additional Collector Committed error while perusing the lower court record of Title suit no. 13422 of 1986 whereas the dispute before him was in respect of Title suit no. 11465 of 1986 and he ought to have perused the lower court record of Title suit no. 11465 of 1986. Moreover, a very criptic order has been passed by the Additional Collector and the impugned order reflects that the Additional Collector, Saharsa failed to apply his judicial mind and, therefore, the matter may be sent back to the Additional Collector, Saharsa for settlement of the dispute by passing a fresh order.

5. On the other hand, learned counsel appearing for the State supports the impugned order arguing that there is no illegality in the impugned order and, therefore, this Court should not exercise the power vested under Article



226 of the constitution of India.

6. From perusal of the impugned order dated 19.04.2010, I find that at the time of passing the aforesaid impugned order, the learned Additional Collector, Saharsa formed his opinion after perusing the record of suit no. 13422 of 1986 whereas the dispute before him was in respect of Title suit no.11465 of 1986 and it appears that he did not peruse the record of Title suit no. 11465 of 1986. Moreover, the learned Additional Collector, Saharsa has not been given any reason in the impugned order rather he has passed a very criptic order. Therefore, in the aforesaid circumstance, this writ petition stands allowed, and as a result whereof, the impugned order dated 19.04.2010 passed by Additional Collector – cum- Charge Officer, Saharsa in Revision Case no. 07 of 2005 is set aside and the matter is sent back to Additional Collector, Saharsa, with direction to him to pass a fresh order in accordance with law within four months from the date of receipt/ production of a copy of this order after perusing the relevant record of court below.

(Hemant Kumar Srivastava, J)

N.K/-

AFR/NAFR	NAFR
CAV DATE	NAFR
Uploading Date	02.08.2017
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