

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9848 of 2007

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Smt.Sitapati Devi, W/o Bhuttu Sah, Resident of village-Bagoin Kany Tola,
P.S. Bairiya, District-West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar
2. Nabi Hassan Mian, H/o Sarphun Khatoon Khatoon, resident of village-
Baghi Kanu Tola, P.S.-Bairiya, P.O. Ratanpur, District-West Champaran,
Bettiah.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arbind Kumar Sharma
Mr. Saroj Kumar Sharma

For the Respondents (1, 3 & 4) : Mr. Dharendra Kumar, AC to AAG-6
For the respondent No. 2 : Sanjay Kumar No. 7, Advocate.
For the State : Mr. Chittaranjan Sinha, PAAG-2
With Mr. Shailendra Kumar, AC to PAAG-2

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

8 27-01-2017 Heard learned counsel for the petitioner, learned

counsel for the private respondent and learned AC to AAG-6,

appearing for the State.

Petitioner has prayed for quashing the order dated
22-10-2005 passed by the learned District Magistrate, Bettiah,
West Champaran in R.M. No. 17 of 2004 by which and
whereunder, he cancelled the Purcha, granted to the petitioner.

It would appear from the record that the petitioner
applied for settlement of Plot Nos. 1743 & 1738, total area of six
decimals on the ground that she has been coming in possession of
the aforesaid lands since long and she has got constructed her
house on the aforesaid lands. The matter was inquired by several



authorities and, accordingly, the aforesaid lands were settled with the petitioner and subsequently, she started paying rent of the aforesaid lands. However, after near about nine years, the original respondent No. 2 namely, Sabuja Khatoon filed cancellation petition of the aforesaid Purcha before the District Magistrate mentioning therein that certain important and relevant facts were suppressed by the petitioner as well as authorities at the time of settlement of the aforesaid lands with the petitioner and as a matter of fact, in relevant documents, possession of original respondent No. 2 had been shown but by suppressing the aforesaid fact, the land was settled to the petitioner and Purcha was granted in her favour. The learned Collector, taking note of the aforesaid fact, cancelled the Purcha and directed the Circle Officer to hear the matter afresh.

The grievance of the petitioner is that the learned Collector while cancelling the Purcha, granted in her favour had not given any opportunity of hearing though she had already appeared and filed her pleadings before the learned Collector.

The impugned order goes to show that at paragraph- 5 of the impugned order, the learned Collector has mentioned that though time was granted to the petitioner but on the appointed day, she failed to appear and, accordingly, the matter was heard ex parte but it is not clear as to whether sufficient opportunity was



given to the petitioner to place her case before the learned Collector or not because the impugned order does not reflect as to how many adjournments were given to the petitioner. Moreover, in the interest of justice, in my view, the matter ought to have been heard by the District Magistrate on merit and, therefore, in the aforesaid circumstances, the impugned order dated 22-10-2005 passed by the learned District Collector, Bettiah, West Champaran stands set aside and the matter is sent back to the District Collector, Bettiah, West Champaran for hearing the matter afresh giving sufficient opportunity to both the parties to place their respective case before him.

The learned District Collector, Bettiah, West Champaran must pass afresh order in R.M. Case No. 17/2004-05 within three months from the date of receipt/production of copy of this order.

However, it is made clear that till passing afresh order by learned District Collector, Bettiah, West Champaran in R.M. Case No. 17/2004-05, the parties shall maintain status quo on the spot in respect of disputed plots.

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

(Hemant Kumar Srivastava, J)

A.K.V./-

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