

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.2160 of 2016

In
Civil Writ Jurisdiction Case No.10257 of 2014

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Kamal Singh S/o late Maharaja Bahadur Ram Ran Vijay Prasad Singh Ex-Proprietor of Dumraon, Raj Estate Resident of Mohalla - Bhojpur Kothi Dumraon, P.O. and P.S. - Dumraon, District - Buxar.

... .. Appellant

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reforms, Govt. of Bihar, Patna.
3. The Commissioner of Patna Division, Patna, Govt. of Bihar, Patna.
4. The Collector of the District Rohtas at Sasaram, at P.O. and P.S. Sasaram, Distt.- Rohtas (Sasaram).
5. The Deputy Collector, Land Reforms, Bikramganj at P.O. and P.S. - Bikramganj, Distt. Rohtas (Sasaram).
6. The Anchal Adhikari, Anchal Bikramganj, at P.O. & P.S. - Bikramganj, Distt. Rohtas (Sasaram).

... .. Respondents

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Appearance :

For the Appellant/s : Mr. Brij Mohan Kumar Singh
For the Respondent/s : Mr. MD. KHURSHID ALAM- AAG12

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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 : 22-02-2018

Heard counsel for the appellant and counsel for the State.

The submission of the learned counsel while assailing the order dated 20.10.2016 passed by the learned single Judge, who has dismissed the writ application but granted liberty to the petitioner to approach the prescribed appellate authority for grant of appropriate relief to him needs to be interfered.

Misc. Case No.4 of 2010-2011 and Misc. Case No.5 of 2010-11 was decided by the D.C.L.R., Bikramganj, Rohtas, against the



interest of the petitioner-appellant. Appellant's case is Misc. Case No.5 of 2010-11. This decision of the D.C.L.R. has been passed on the basis of an order of remand passed in C.W.J.C. No. 8495 of 1990 and C.W.J.C. No. 10620 of 1997 (which related to the present appellant). The basic reason for remand order passed by the learned single Judge was that proper notice and opportunity was not given to the parties.

The finding of the D.C.L.R. is that the manner in which the transaction has been done and the land in question related to the period 01.01.1946 and the finding of facts are that the transaction was only to defeat the objective of the Bihar Land Reforms Act. It is a rather detailed finding on facts given by the D.C.L.R..

However, the stand taken by the appellant is that since the lease-deed initially related prior to 01.01.1946, therefore, the matter will not come within the ambit of Section 4 (h) of Bihar Land Reforms Act, 1950.

We have gone through the order of the learned D.C.L.R. and the factual findings given therein in the manner of such transaction, which has come about.

We are *prima facie* satisfied that this is not a case where there is lack of jurisdiction and authority in the D.C.L.R. to adjudicate upon the matter, the facts being such, but we are deliberately not



going into the each and every factual aspect for the reason that if a Division Bench gives those findings of fact it will surely create prejudice against the present appellant if he decides to approach the Collector being the appellate authority under the 1950 Act.

It is in this background that the learned single Judge has used his discretion and refused to get taken in by the submissions and has given a window of opportunity to the appellant to go before the appellate authority which the appellant failed to avail and decided to file this appeal.

We are of the opinion that there is no legal infirmity in the order of the learned single Judge by refusing to entertain an application under Article 226 of the Constitution of India. The issue whether the D.C.L.R. had jurisdiction and whether the matter comes under Section 4(h) of the Bihar Land Reforms Act are all matters which can be very well raised before the District Magistrate and can be considered and answered by the District Magistrate.

On the whole, we are not inclined to interfere with the order of the learned single Judge. The appeal is dismissed. Liberty, however, is still given to the appellant to approach the appellate authority just like the other petitioners of the other writ applications who have already done so.



If the appeal is filed by the present appellant within a period of three weeks from today, the Collector would endeavor to see that all the appeals are decided preferably within a period of six months thereof. The Court expects due cooperation of all the parties to the litigation.

Appeal is dismissed with above observation and liberty.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

AFR/NAFR	N.A.F.R.
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