

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.174 of 2016
IN
Civil Writ Jurisdiction Case No. 3803 of 1991**

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1. Krishna Ram Son of Gaya Ram null
2. Shri Rameshwar Pandit Son of Sakun Pandit
3. Shri Ramchandra Pandit Son of Sakun Pandit All above Resident of village and Post Office Pandui, P.S. Paras Bigha (Jehanabad), District- Jehanabad.

.... Appellant/s

Versus

1. The State of Bihar
2. The Collector, Jehanabad.
3. The Sub Divisional Officer, Jehanabad.
4. The Anchal Adhikari, Jehanabad.
5. Alok Kumar'Pankaj' Son of Late Brajraj Prasad, Resident of Village and Post Office- Pandui, P.S. Paras Bigha (Jehanabad), District- Jehanabad.

.... Respondent/s

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Appearance :
For the Appellant/s : Mr. Madhav Roy
For the Respondent/s : Mr. Ashoke Kumar Gupta, AC to GP 10

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**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY**
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 17-01-2018

Seeking exception to an order dated 22nd December, 2008
passed by the learned Writ Court in CWJC No. 3803 of 1991 this
appeal has been filed under Clause 10 of the Letters Patent.

The appellant herein was respondent no. 7 in the writ
petition and it was the case of the original petitioner Brajraj Prasad
Singh in the writ petition that an order has been passed by the Anchal
Adhikari in the matter of settlement of land in question measuring 42
decimals situated in CS Plot No. 1487, Khata No. 860 in favour of the



appellants by issuing Parwana. According to the petitioner, the land in question is a raiyati land which came into possession of the petitioner's father way back in the year 1938 and, therefore, the settlement is illegal, particularly as the settlement has been ordered behind his back without notice to him, without hearing him and even without impleading him as party in the proceedings.

The learned Writ Court took note of the aforesaid facts, found it to be correct and holding that the settlement was passed in the manner as indicated in the writ petition is contrary to the principles of natural justice, allowed the writ petition, quashed the order of settlement and granted liberty to the present appellants to pursue the matter afresh in case they have any grievance.

From the aforesaid it is clear that the impugned settlement was quashed by the learned Writ Court on account of violation of the principles of natural justice and as the right of the original petitioner Brajraj Prasad Singh was taken away without hearing him. That being the reason for quashing the order of settlement we find no error in the same warranting reconsideration. However, in case the appellants herein feel that they are entitled to settlement in their favour in view of the liberty granted to them by the Writ Court they can still initiate proceeding wherein the question of their right can be settled in accordance with law after following the due process of law including



notice to the respondent original petitioner Brajraj Prasad Singh and hearing him. That right always being available to the petitioner, the petitioner is still entitled to invoke the same right by initiating proceeding in accordance with law. However, in case the appellants invoke their right as indicated hererinabove, till decision is not taken by the statutory authority or any interim or interlocutory order is passed, status quo with regard to the issue may be maintained by the parties. However, in case the appellants do not invoke the remedy available within a reasonable time, i.e. within 45 to 60 days, the order of status quo passed shall become inoperative and the parties are left to work out their right in accordance with law.

The appeal stands disposed of accordingly.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mr.l./-

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