

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4104 of 2014

=====

1. Govind Mohan Jha Son of Shri Man Mohan Jha Resident of Village : -
Koilakh, Police Station - Raj Nagar District : - Madhubani.

.... Petitioner

Versus

1. The State of Bihar
2. Panchayati Raj Officer, Madhubani
3. The Sarpanch, Gram Panchayat Raj Koilakh, Police Station - Raj Nagar,
District - Madhubani
4. Shyam Nath Mishra, Son of Late Jeev Nath Mishra, Resident of Village :
- Koilakh, Police Station - Raj Nagar District : - Madhubani.

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Prabhash Ranjan, Advocate
For the Respondent/s : Mr. Manoj Kumar, A.C. to G.P.4
Mr. Pramod Kr. Singh, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 03-04-2018

This writ application has been filed for setting aside the order dated 21.12.2013 passed by learned Munsif-I , Madhubani in Miscellaneous Case No.11 of 2012 whereby and whereunder the petition filed by petitioner under section 118 of the Bihar Panchayat Raj Act for quashing the order passed by Gram Katchahry, Koilakh in Case No.11CR/ 2008 has been rejected.

2. Heard learned counsel for the petitioner and learned counsel for the respondents.

3. The fact, in brief, is that the respondent no.4 filed a petition on 02.04.2008 before Gram Katchahry Panchayati Raj,



Koilakh giving rise to Case No.11CR of 2008 stating therein that the petitioner and others have cut 14 trees which were standing over his raiyati land comprised in khesra no.2659 of khata no.1272. After due notice, the petitioner appeared and filed written statement denying the allegation. The petitioner denied that any tree was standing over the said plot and claimed the said land as his own land where he has his residential house towards the west. The petitioner filed two petitions on 03.08.2008 wherein he prayed to transfer the case to the competent court as the value of the property was beyond the jurisdiction of Gram Katchahry and another petition for permitting him to deposit the fee of government Amin for measurement of disputed land. The case was disposed of on 03.08.2008 and the petitioner was directed to furnish bond of Rs.5,000/- and pay an amount of Rs.5,000/- to the complainant as price of the trees. The petitioner was not provided certified copy of the said order for assailing the same before the competent authority. The petitioner, however, filed a petition on 05.08.2008 under the Right to Information Act whereupon information was given to this petitioner on 11.08.2008.

4. The learned counsel for the petitioner submits that the petitioner was neither given opportunity of hearing nor adducing evidence before passing the impugned order. The respondent no.4 has not filed any document of title in support of his claim as regards



cutting of trees from his said land. The petitioner filed C.W.J.C. No.1010 of 2009 before this Court which was disposed of on 16.10.2012 with an observation and direction to the petitioner either to file an appeal or an application under Section 118 of the Bihar Panchayat Raj Act before the concerned court. The petitioner accordingly filed a petition along with a petition for condoning delay before the court of learned Munsif, Madhubani, which after hearing, was dismissed as per impugned order dated 21.12.2013. The learned counsel for the petitioner submits that the court below ought to have remitted the matter for deciding the case as per the provision of Bihar Panchayat Raj Act. The Gram Katchahry has not complied the provision of Sections 102, 103, 107 (2) and Section 118 of Bihar Panchayat Raj Act. It should have taken efforts for amicable settlement as provided under the Act. The learned Munsif without considering the provision of law has dismissed the miscellaneous case filed by the petitioner under Section 118 of the Bihar Panchayat Raj Act.

5. Learned counsel for the respondents, on the other hand, submitted that the learned Munsif has dismissed the case after considering all the grounds taken by the petitioner before the concerned court. The impugned order does not suffer from any illegality and so this writ application is fit to be dismissed.



6. On perusal of documents on record, I find that after issuance of notice, the petitioner appeared before the Gram Katchahry and filed written statement denying the entire allegation in the complaint petition. The petitioner holds land in Plot No.2783, 2784 and 2785 having 16 katha 01 dhoor which is just west to Plot No.2659 in dispute. The petitioner and his co-sharers have their residential house, sahan and orchard. The Gram Katchahry under the provision of Section 102 ought to have taken step for amicable settlement of dispute between the parties and in a case of failure of amicable settlement, the matter should have been enquired by a bench of Gram katchahry. The criminal power of a bench of Gram Katchahry is provided in Section 107 of Bihar Panchayat Raj Act wherein it is mandatory for Gram katchahry to give an opportunity to the parties to adduce evidence and after hearing the parties to decide the dispute. In the case in hand, I find that no opportunity was given to the parties to adduce evidence either oral or documentary. The learned Munsif in a routine manner on the basis of documents on record has dismissed the case.

7. In view of above facts and circumstances, the impugned order dismissing the miscellaneous case filed under Section 118 of the Bihar Panchayat Raj Act is set aside. The matter is remitted to the Gram katchahry to decide the case after giving full opportunity to



both the parties.

8. This writ application is, accordingly, allowed.

(Sanjay Kumar, J)

Harish/-

AFR/NAFR	
CAV DATE	
Uploading Date	12.04.2018
Transmission Date	

