IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.34 of 2017

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Prem Prakash Rai, Son of Shri Kamla Kant Rai, Resident of Bazar Samiti Road, Mahatma Gandhi Nagar, P.S. Buxar, District - Buxar

... ... Petitioner/s

Versus

1. The State of Bihar, through District. Magistrate, Buxar
2. The Commissioner, Patna Division, Patna
3. The Land Reforms Deputy Collector, Buxar
4. Chandra Shekhar Singh, Son of Late Firangi Singh, resident of Bazar Samiti Road, Mahatma Gandhi Nagar, P.S. Buxar, District - Buxar

... ... Respondent/s

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Appearance :

For the Petitioner	:	Mr. Uma Shankar Singh, Advocate
For the State	:	Mr. Md.Khurshid Alam-AAG 12
For Respondent No. 4	:	Mr. Rajendra Narain, Sr. Advocate Mr. Harshvardhan Shrivastava, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
and
HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT
(Per: HONOURABLE DR. JUSTICE RAVI RANJAN

Date : 10-10-2018

This writ petition has been filed for setting aside the order, dated 2.12.2016, passed by the Bihar Land Tribunal, Patna in BLT Case No. 476 of 2016. The Tribunal has set aside the order dated 9.3.2016 affirming the order of the DCLR, Buxar dated 4.11.2013. The petitioner has also prayed for quashing of the order dated 4.11.2013 passed by the DCLR Buxar in Land Dispute Case No. 58 of 2013-14.

2. Land Dispute Case No. 58 of 2013-14 was filed by private respondent No. 4. He claimed, title and interest over 1 Katha of land in Plot No. 458, Khata No. 210/547. On the

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basis of such claim, he sought removal of encroachment from the said land, alleged to have been made by the instant petitioner.

3. The short point which has been raised by the petitioner in the instant proceeding is that under the provisions of Bihar Land Dispute Resolution Act, 2009, the authorities do not have jurisdiction to determine and adjudicate issues touching upon the right, title and interest over the land.

4. Counsel for the petitioner has taken us through the provisions of the Act and has relied upon a judgment of the Division Bench of this Court in the case of ***Maheshwar Mandal & anr. vs. The State of Bihar & ors.*** reported in ***2018(3) PLJR 1007***. The provisions of the Act have been considered in detail in the case of ***Maheshwar Mandal*** (supra). The Division Bench in the said judgment has clearly held that the competent authority under the Act, being a revenue officer, is not capable of conferring or creating a right in favour of a person, which otherwise is required to be declared by a court of competent jurisdiction being the Civil Court. While discussing the provisions contained in the Act, the Division Bench has held that the proceeding under the Bihar Land Dispute Resolution Act are to be read and

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understood as a provision whereunder the competent authority would entertain a claim only for enforcement of the declarations in favour of a person by virtue of an adjudication made by the competent civil court or any other court or forum under any of the six enactments which have been enumerated in Section 3 of the Act.

5. In the instant case, we find that there is no such adjudication or declaration in favour of private respondent No. 4 in respect of the land in question either by a competent civil court or any of the forums under the six enactments enumerated in Section 3 of the Act. That being so, the claim of respondent No. 4, raising issues of right, title and interest cannot be gone into by the competent authority exercising the jurisdiction under the Act. The order dated 4.11.2013 passed in Land Dispute Case No. 58 of 2013-14 directs the Circle Officer to remove encroachment, as alleged by the private respondent No. 4. However, there is no adjudication by any competent civil court regarding the possession of the petitioner being without any right, title and interest. Further the lands, which have allegedly been encroached by the petitioner, are also not public land. Also there is no adjudication in favour of respondent No. 4 by any authority under the six enactments

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enumerated in Section 3 of the Act.

6. In the aforesaid circumstances, this Court holds that the order dated 4.11.2013 passed by the DCLR Buxar in Land Dispute Case No. 58 of 2013-14 is grossly illegal and without jurisdiction. This Court, however, would refrain from going into the basis of the claim made by the private respondent No. 4 and the petitioner on the basis of alleged purchase of the plot in question, as the same may prejudice either of the parties in any subsequent proceeding, which they may chose to avail in accordance with law. As a result, the order dated 9.3.2016 passed by the Commissioner, Patna Division, affirming the order of the DCLR, Buxar, as well as the order dated 2.12.2016 passed by the Member Administrative, Bihar Land Tribunal, Patna, in BLT Case No. 476 of 2016, in the circumstances would also collapse, as they have merely affirmed the order passed by the DCLR in Land Dispute Case No. 58 of 2013-14, which this Court has found to be without jurisdiction and illegal.

7. The order dated 4.11.2013 passed by DCLR Buxar (Annexure 3), order dated 9.3.2016 passed by Commissioner, Patna Division, Patna (Annexure 4) and the order dated 2.12.2016 passed by the Member Administrative, Bihar Land

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Tribunal, Patna in BLT Case No. 476 of 2016 (An nexure 5) are hereby quashed.

8. The writ petition stands allowed.

(Dr. Ravi Ranjan, J.)

(Madhuresh Prasad, J.)

SNkumar/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	19.11.2018
Transmission Date	N/A

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