

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6346 of 2018

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Shahpur Matasyajivi Sahyog Samiti Ltd., Registration No.01-19-02-2011 through Secretary Mahendra Choudhary, Son of Late Gawahir Choudhary, Resident of Village- Parsounda (Karaila) P.O.- Prasounda, P.S.- Shahpur, District- Bhojpur (Ara).

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Revenue and Land Reforms, Bihar, Patna.
2. The Collector/District Magistrate, Bhojpur (Ara).
3. The Additional Collector, Bhojpur, Ara.
4. Ranapratap Singh, Son of Late Ram Naresh Singh,
5. Prashant Kumar Singh, Son of Rana Pratap Singh,
6. Shashank Kumar Singh, Son of Rana Pratap Singh, Respondent no.04 to 06 Resident of Village- Chakwath, P.S.- Behia, District- Bhojpur (Ara).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. D.K.. Sinha, Senior Advocate
Mr. Abhay Kumar Pandey, Advocate
For the Respondent/s : Mr. Subhash Chandra Yadav, GP-15

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT

Date: 27-07-2018

Heard Mr. D.K. Sinha, learned senior counsel
appearing on behalf of the petitioner, learned counsel for the State and
the learned counsel appearing on behalf of respondent nos. 4 to 6.

The petitioner in this writ petition initially seeks to quash the advertisement published in Hindustan daily newspaper on 10.03.2018 (Annexure-2) inviting tender for settlement of Suhiya Bhagar and other Sairats but during the pendency of this writ petition, the petitioner filed I.A. No. 5095 of 2018 and seeks to quash the order as contained in Memo No. 842 dated 05.04.2018 (Annexure-5) by



which the Additional Collector settled the Suhiya Bhagar Sairat in favour of respondent no. 5 at reserve jama of Rs. 24,50,000/-.

Learned counsel for the petitioner submits that Suhiya Bhagar Sairat was settled in favour of the petitioner for three financial years for 2016-17, 2017-18 and 2018-19 at reserve jama of Rs. 13,85,750 vide order contained in Memo No. 591 dated 07.04.2017 (Annexure-A) but an advertisement (Annexure-2) was published for settlement of the Suhiya Bhagar Sairat for the financial year of 2018-19. The petitioner filed petition (Annexure-4) before the Additional Collector that no fresh tender should be invited as Suhiya Bhagar Sairat has already been settled with him for three financial years starting from 2016-17 to 2018-19 but the respondents, without cancelling the settlement made in favour of the petitioner for three years ending on 31st March, 2019, the Suhiya Bhagar Sairat has been settled in favour of respondent no. 5.

On the other hand, learned counsel for the State and the learned counsel for the respondent nos. 4 to 6 filed counter affidavit. Learned counsel for the State did not dispute the facts that the Suhiya Bhagar Sairat was settled for three years with the petitioner. Learned counsel for the respondent nos. 4 to 6 has submitted that after settlement of three years, the fixed jama is again enhanced and fresh tender is to be issued. The petitioner was settlee of the Sairat from the



financial year 2015-16. That is why a fresh notification for settlement of different sairats including Suhiya Bhagar Sairat was issued and in open tender Suhiya Bhagar Sairat was settled in favour of respondent no. 5 at reserve jama of Rs. 24,50,000/-.

Having considered the submissions of both sides and on perusal of the records, it is admitted fact that it is crystal clear from Memo nos.908 and 924 as contained in Annexure-1 series that Additional Collector, Bhojpur, Ara communicated the order as contained in Memo No. 591 dated 07.04.2017 that Suhiya Bhagar Sairat was settled in favour of Mahendra Choudhary, the petitioner at reserve jama of Rs. 13,85,750/- and he was directed to deposit Rs. 4,62,000/- through draft. The sairat was settled for three financial years begins from 2016-17, 2017-18 and 2018-19 but District Administration again issued a notification for settlement of different sairats situated in the district of Ara. The petitioner filed representation that Suhiya Bhagar Sairat has already been settled with the petitioner for three years till 31st March, 2019 but without paying any heed, the authorities settled the Suhiya Bhagar Sairat in favour of respondent no. 5 without cancelling settlement earlier made in favour of the petitioner. Thus, I find that the settlement made in favour of respondent no. 5 is absolutely illegal and not sustainable. Accordingly, the order as contained in Memo No. 842 dated



05.04.2018 (Annexure-5) settling the sairat in favour of respondent no. 5 is set aside and the authority is directed to allow the petitioner to fish out the Sairat till March 31st 2019.

Accordingly, this writ petition is allowed.

(Prabhat Kumar Jha, J)

N.H./-Ragini

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	01-08-2018
Transmission Date	

