

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16702 of 2016

Rashida Khatoon Wife of Late Syed Shah Ashique Hussain Resident of village - Dargah Shah Arzan, Police Station Sultanganj, District - Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Patna.
3. The D.C.L.R. Patna City, Patna.
4. The Circle Officer, Patna Sadar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Awadhesh Kumar Mishra Mr. Syed Asgher Najmi Mr. Ajay Kumar
For the State	:	Mr. Subhash Chandra Yadav- GP-15 Mr. Rakesh Kumar Shrivastava, AC to GP-15

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 05-02-2019 Heard learned counsel for the parties.

This writ application has been filed, seeking a direction to the respondent-authorities for fixing the rent in respect of the petitioner's land appertaining to Khesra No. 791, Khata No.437/438, Tauzi No. 303 situate at Mauza Sandalpur, Thana No.11 in the district of Patna.

During the pendency of this writ application, the petitioner's application before the Circle Officer for fixing of rent etc. has been rejected by the Circle Officer, according to the petitioner, by an order which has been brought on record by way of Annexure to I.A. No.2830 of 2018. I.A.No. 2830 of 2018 has been filed seeking leave to amend the writ application so as to challenge the decision of the Circle Officer, rejecting the petitioner's application.

Learned counsel, appearing on behalf of the



petitioner, drawing my attention to Annexure-7, particularly with reference to the notings at page 55 of the present brief, submits that her application has been rejected on the ground of pendency of CWJC No. 13076 of 2010 before this Court. Learned counsel, referring to Annexure-8 of the said interlocutory application, has submitted that the said CWJC No. 13076 of 2010 was already dismissed on 04.04.2016, much before passing of the order of the Circle Officer.

Considering the averments made in I.A.No. 2830 of 2018, the same is allowed. The petitioner is permitted thus to question the validity of the order of the Circle Officer, rejecting her claim, as noted above.

From the records, it appears that it has been wrongly recorded by the Circle Officer that the matter is pending before this Court, whereas the matter has, in fact, been disposed of by an order dated 04.04.2016, as has been indicated above.

Learned counsel for the State of Bihar submits that a suit is pending in respect of the same land before a competent court of civil jurisdiction.

Learned counsel, appearing on behalf of the petitioner, responding to the said submission, has contended that the petitioner has nothing to do with the said suit which is



pending.

Be that as it may, in the background of the fact that the reason for rejection of the petitioner's application, as recorded by the Circle Officer, appears to be erroneous, the same is accordingly set aside.

The Circle Officer, Patna Sadar, Patna, is directed to pass a fresh order on the petitioner's application within two months from the date of receipt/production of a copy of this order. It will be open to the Circle Officer to pass an order adhering to law, without being prejudiced by any observation made in the present order, since I have not gone into the merits of the claim of the petitioner. The Circle Officer shall be at liberty to take into account the effect of the pendency of the suit before the appropriate court and the plea of the petitioner that she is not concerned, in any manner, with the said suit.

The writ petition is allowed with the aforesaid observation and direction.

(Chakradhari Sharan Singh, J)

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