

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17397 of 2018

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Deonarain Mahto Son of late Dorik Mahto Resident of Village- Moura, Post
Office- Pararia, Police Station- Sonbarsa Raj, District- Saharsa.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Divisional Commissioner, Koshi Division, Saharsa, District- Saharsa.
3. The Collector Cum District Magistrate, Saharsa.
4. The Additional Collector Cum Additional District Magistrate, Saharsa.
5. The Sub Divisional Officer Cum Magistrate, Saharsa.
6. The Circle Officer, Sonbarsa Raj Block, District- Saharsa.
7. The Circle Inspector, Sonbarsa Raj Block, District- Saharsa.
8. The Block Development Officer, Sonbarsa Raj Block, District- Saharsa.
9. The Officer Incharge, Kash Nagar, O.P. District- Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Upendra Prasad II
For the Respondent/s : Mr .Md. Khurshid Alam - AAG-12

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 09-05-2019 Heard learned counsel for the parties.

It is the petitioner's case that he is a retired military personnel and a piece of land was settled in his favour under certain scheme for welfare of the retired and serving army personnel. The area of land, which was settled in his favour, is said to be 04 acre 74 decimal.

In support of his claim that the land was settled, Court's attention has been drawn to Annexure-3 and Annexure-4 to the writ application, which are manifestly recommendations



made by the Circle Officer, Sonbarsa Raj Block, Saharsa and the Sub. Divisional Officer, Saharsa, for settling the land in his favour. There is no document to suggest that the land was, in fact, settled in his favour. Annexure-6, dated 24.07.1973, is also a recommendation made by the Additional Collector, Saharsa, and the Collector, Saharsa, to the Divisional Commissioner, Koshi Division, Saharsa, but there is nothing to show that the land was settled in favour of the petitioner. This is also to be noted from the order, dated 24.07.1973, that the Collector, Saharsa, was of the opinion that under the welfare scheme for settlement of land only 02 acres of agricultural land could be settled and the recommendation was accordingly made.

It is the case of the petitioner that the matter is still pending before the Divisional Commissioner, Koshi Division, Saharsa. It has further been stated that recently the petitioner has learnt that a Panchayat Bhawan is going to be constructed on the land of the petitioner, which made him to approach the Deputy Collector-cum-Public Grievance Redressal Officer, Saharsa, by making an application, which came to be finally rejected by an order, dated 16.06.2017. Petitioner's appeal preferred before the appellate authority-cum-Divisional Commissioner has also been rejected by order, dated 07.04.2017.



It has been further asserted in the writ application that on 24.05.2018, the Circle Inspector, Sonbarsa Raj Block, Saharsa, the Block Development Officer, Sonbarsa Raj Block, Saharsa and the Station House Officer, Kash Nagar O.P., Saharsa, with other police force, suddenly entered into the residential house of the petitioner and damaged the valuable household articles. The petitioner's request for lodging of a First Information Report has also been turned down, it has been asserted in the writ application. His complaint petition has also been dismissed.

It is manifest from the pleadings and the Annexures brought on record to the present writ application, that so far there is no settlement of land in favour of the petitioner under the said scheme or any other scheme.

The Court fails to understand the circumstance in which the petitioner is said to have constructed a residential house over the land, which is admittedly a Government land and was never settled in his favour. The statement made in the writ application that the petitioner acquired 04 acre 74 decimal of land by way of settlement under the scheme of the Government for welfare of the retired/serving army personnel, is not substantiated by any document on record.



The petitioner had invoked the provisions of the Bihar Right to Public Grievance Redressal Act, 2015 (in short 'the Act') and has put to challenge in the present writ application, the order passed by the Public Grievance Redressal Officer, Saharsa, and the appellate authority under the Act.

On perusal of the order of Public Grievance Redressal Officer, I find that he has assigned a reason why the petitioner is not entitled for settlement of land. He has referred to a letter, dated 16.08.1982, issued by the Revenue Department, Government of Bihar, which stipulates that only such army personnel are entitled for settlement who are landless i.e. they possess land less than 50 decimal inclusive of the residential land. The Public Grievance Redressal Officer, Saharsa, has recorded, based on a report, that the petitioner possesses more than 50 decimal of land and, accordingly, has held that he is not entitled for settlement of land under the said scheme. The appellate authority has disposed of the appeal by referring only to the pendency of the matter before the court of the Chief Judicial Magistrate.

In my view, the appellate authority ought to have considered the legality of the order passed by the Public Grievance Redressal Officer, Saharsa, instead of dismissing the



same on the ground of pendency of some case before the learned Chief Judicial Magistrate, Saharsa.

As has already been noted above, the complaint case filed by the petitioner has been dismissed and, thus, the case before the Chief Judicial Magistrate, as noted in the order of the appellate authority, has concluded. In any case, the said aspect is immaterial for the purpose of consideration of the petitioner's appeal on merit. The appellate authority ought to have considered the legality of the order passed by the Public Grievance Redressal Officer, Saharsa, dated 16.06.2017.

In view of the above, in my opinion, the order of the Appellate Authority-cum-Divisional Commissioner, Koshi Division, Saharsa, dated 17.07.2018, cannot be sustained and accordingly set aside. The appellate authority is directed to reconsider the petitioner's appeal on merit and pass an order afresh, within a period of two months from the date of receipt/production of a copy of this order.

This application is, accordingly, disposed of.

(Chakradhari Sharan Singh, J.)

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