

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24440 of 2018

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Parmila @ Most. Parmila Devi W/o Late Purushotam Rai Resident of Village
and P.O.- Sonpa, P.S.- Rajpur Anchal Chausa, District- Buxar

... .. Petitioner

Versus

1. The State Of Bihar through its Principal Secretary, Department of Revenue
and Land Reforms, Government of Bihar, Patna
2. The Collector, Buxar
3. The Sub Divisional Magistrate, Buxar
4. The Land Reforms Deputy Collector, Buxar
5. The Circle Officer, Chausa, Buxar
6. The Circle Officer, Rajpur, Buxar

... .. Respondents

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Appearance :

For the Petitioner : Mr. Abhishek

For the Respondents : Mr.Raj Kishore Roy, GP-18

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

5 08-08-2019 Regard may be had to the order of this Court, dated

05.08.2019, wherein the questions, which this writ application
involves, has been precisely framed. The question as to whether
the petitioner can derive any benefit of the notification dated
03.05.1971, which provides for settlement of *gairmazarua
malik* and *gairmazarua aam* lands in favour of privileged
persons.

On perusal of the said notification, it is evident that
the benefits under the said notification have been extended to
such persons, who would have been entitled for benefit under
the Bihar Privileged Persons Homestead Tenancy Act, 1947, if



they had residential house over the land of a *raiyat*. It is not dispute that the petitioner is not a privileged tenant within the meaning of the Act. It is, however, her case that she is a privileged person and, therefore, the *gairmazarua* land should be settled in her favour under the scheme of the State Government. The petitioner claims to be the widow of an ex-Army Man and she has constructed house over the land recorded under Khata No. 495, Plot No. 264 and 265, admeasuring 15 decimal, situate at Mauza-Jalilpur in the district of Buxar. The said land was recorded under *Khatiyar* as *Anabad Jansadharan* with the nature of land as ditch. In the year 1996, the late husband of the petitioner had filed an application for construction of house over the Government land as he was landless person. It is also the case of petitioner that on the basis of said request, a settlement case was registered and despite favourable reports, settlement could not be done till the demise of her husband. After the death of her husband, she received a notice for removal of encroachment over the land and thereafter filed a miscellaneous case before the Collector, Buxar, giving rise to Misc. Case No. 157 of 2016, which is still pending.

A counter affidavit has been filed on behalf of the State of Bihar stating that the petitioner is residing in her



dwelling house, situated at Plot No. 294, 293, Khata No. 310 and 313, admeasuring 10.50 decimal, which is her ancestral property and that her miscellaneous case, i.e., Misc. Case No. 157 of 2016, has been dismissed for non-prosecution on 26.02.2019. It has been denied that the petitioner is landless or her husband was landless. It has been controverted that the family of the petitioner's husband possessed 12.50 acres of land. Referring to the land, settlement of which the petitioner is claiming, it has been stated in the counter affidavit that it has been recorded in the revenue records as *Anabad Sarvsadharan*, nature of which is ditch. It has also been stated that under the policy of the State Government, no water body can be settled in favour of any person. The status of the petitioner as privileged person or tenant has been denied.

In view of the admitted facts, as asserted in the writ application, read with the counter affidavit filed on behalf of the State of Bihar, I do not find any merit in this application. This application is accordingly dismissed.

(Chakradhari Sharan Singh, J)

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