

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7155 of 2015

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Jagnnath Prasad Son of Late Asharfi Sah Resident of Village - Sangrampur
Tola Ramana, P.S. P.O. - Sangrampur, Dist - East Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. Adalat Ram Son of late Dharichchan Ram Resident of Village - Sangrampur
Tola Ramana, P.S. P.O. - Sangrampur, Dist - East Champaran.
3. Circle Officer, Sangrampur, East Champaran.
4. D.M. Cum Collector, East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Suresh Prasad
For the Respondent/s : Mr.M.K. Sinha- SC-1

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 28-01-2019 Heard learned counsel for the parties.

2. A counter affidavit is being filed on behalf of the respondents- State of Bihar, which is taken on record.

3. An order dated 30.04.2013, passed by the Divisional Commissioner, Tirhut Division, Muzaffarpur in Bihar Land Dispute Resolution Case No. 243 of 2011 has been put to challenge to a limited extent in the present application. The petitioner had a grievance before the authorities under the Bihar Land Dispute Resolution Act, 2009 (hereinafter referred to as 'the Act') that the private respondent No.2 has encroached upon a piece of land which belongs to the petitioner. Learned Commissioner has held that the land in question, is a *raiyyati*



land and has thus, accepted the plea of the petitioner. However, when the Commissioner asked the Circle Officer to conduct on the spot enquiry and get satisfied in respect of the land which t respondent no.2, who belongs to Scheduled castes, holds he is found to be landless, steps be taken for settlement under Bihar Privileged Persons Homestead Tenancy Act. The Commissioner has also recorded that if the respondent No.2 is not found to be landless, treating the land in question to be encroached by him, be vacated.

4. Learned counsel appearing on behalf of the petitioner has contended that respondent No.2 is not a landless person and, therefore, provision of Bihar Privileged Persons Homestead Tenancy Act shall have no application. I do not intend to comment on this aspect at this stage.

5. The petitioner has remedy before the Bihar Land Tribunal constituted under the Bihar Land Dispute Tribunal Act, 2009, which he may invoke.

6. It goes without saying that the petitioner may resist settlement, if any, in favour of respondent No.2 on the plea that he is not a landless person in an appropriate proceeding.

7. It is also observed that if any question of delay in preferring the case before the Tribunal arises, the Tribunal shall



keep in mind the fact that the petitioner was pursuing his
remedy from 06.05.2015 till passing of the present order.

8. This application stands disposed of with the liberty
as aforesaid.

(Chakradhari Sharan Singh, J)

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