

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13469 of 2017

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Saiyad Hussain S/o Late Khizmuddin Mian, R/o Village Gopalpur, P.S. Hussainganj, District- Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Commissioner Saran Division, Chhpara.
3. The Circle Officer Pacharukhi, P.S.- Pacharukhi, District- Siwan.
4. Parvej Alam, S/o Shamuddin, R/o Village Mohaddinpur Hospital Road, PO and P.S. Siwan, District- Siwan.
5. Nasimul Haque, S/o Azizul Haque, R/o Village Naya Bazar, Gulzar Manzil, P.O. and P.S. Siwan, District- Siwan.

... .. Respondent/s

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with
Civil Writ Jurisdiction Case No. 13370 of 2017

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Saiyad Hussain S/o Late Khizmuddin Mian, R/o Village Gopalpur, P.S. Hussainganj, District Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Commissioner Saran Division, Chhapra.
3. The Circle Officer Pacharukhi, P.S.- Pacharukhi, District- Siwan.
4. Parvej Alam, S/o Shamuddin, R/o Village Mohaddinpur Hospital Road, PO and P.S. Siwan, District- Siwan.
5. Nasimul Haque, S/o Azizul Haque, R/o Village Naya Bazar, Gulzar Manzil, P.O. and P.S. Siwan, District- Siwan.

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 13469 of 2017)

For the Petitioner/s : Mr.Chandra Kant

For the Respondent/s : Mr.Sajid Salim Khan -SC-25

(In Civil Writ Jurisdiction Case No. 13370 of 2017)

For the Petitioner/s : Mr.Chandra Kant

For the Respondent/s : Mr.Rishi Raj Sinha -ScC-9

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER



6 20-06-2019 Heard learned counsel for the parties.

2. The petitioner has put to challenge, in CWJC No. 13469 of 2017, an order dated 30.09.2016, passed by learned Chairman, Bihar Land Tribunal, in B.L.T. Case No. 273 of 2016, whereby the orders dated 03.05.2015 passed by the Deputy Collector Land Reforms, Siwan Sadar and 30.12.2015, passed by the Commissioner, Saran Division, Saran have been quashed. The learned Member of the Tribunal, following the said order dated 30.09.2016, has disposed of another B.L.T. Case No. 1210 of 2016 by order dated 27.03.2017 which is under challenge in CWJC No. 13370 of 2017. Both the orders passed by the Tribunal are being assailed in the present cases, which have been heard together and are being disposed of by present common judgment and order..

3. From the order of the Bihar Land Tribunal, dated 30.09.2016, it is apparent that the same has been passed in the absence of the petitioner, as the petitioner (petitioner No.5 in B.L.T. Case No. 273 of 2016) did not appear to contest the matter despite service of notice, it is petitioner's case, though, that no notice was ever served on him and his address, as given in the cause title of B.L.T. Case No. 273 of 2016, is incorrect. In support of his plea, learned counsel for the petitioner has



drawn my attention to proceedings before the Commissioner, Saran, and the Deputy Collector Land Reforms, Siwan Sadar, to make out his case that the petitioner's present address was not mentioned in the cause title. So far as the order of the Bihar Land Tribunal, dated 27.03.2017, is concerned, it is his case that no notice at all was ever sent to him.

4. Learned counsel, appearing on behalf of the petitioner, in the above background, contends that the Tribunal ought not to have passed the impugned orders without giving the petitioner an opportunity of hearing.

5. I have perused the impugned order, dated 30.09.2016, passed in B.L.T. Case No. 273 of 2016, whereby the order passed by the Deputy Collector Land Reforms, Siwan Sadar, dated 03.05.2012 has been held to be beyond jurisdiction, as according to the learned Chairman of the Tribunal, it was the Circle Officer, who was competent to pass appropriate order under Section 48-D of the Bihar Tenancy Act and the Deputy Collector Land Reforms did not have any jurisdiction to pass such order. This position of law is unexceptional and the learned counsel appearing on behalf of the petitioner does not dispute this position of law. He, however, submits that in no circumstance, the impugned order (s) by the Tribunal ought to



have been passed without giving the petitioner an opportunity of hearing.

6. In view of the stand taken on behalf of the petitioner in both the cases notices were issued to the contesting private respondents, whereafter, they have entered appearance through Vaklatnama.

7. Counter affidavits have also been filed. There is no denial of the fact that the address of the petitioner was not properly given in the petition filed before the Bihar Land Tribunal. The Tribunal has recorded in paragraph 6 of the impugned order that despite proper service of notice, the petitioner (who was Opposite party No.5 before the Tribunal) did not appear to contest the matter.

8. Learned counsel appearing on behalf of the respondents has contended that this Court may not interfere with the order of the Tribunal even if it is found that there was no proper service of notice upon the petitioner for the reason that the order passed by the Deputy Collector Land Reforms, Siwan Sadar and the Commissioner, Saran Division were completely beyond jurisdiction. Their submission that it was the Circle Officer who is competent to pass appropriate orders under Section 48-D of the Bihar Tenancy Act and, therefore, the



petitioner should be relegated to the Circle Officer for remedying his grievance.

9. In the impugned order dated 15.03.2019, it has been noticed that it is the Circle Officer who is competent to pass appropriate order under Section 48-D of the Bihar Tenancy Act. There cannot be any dispute that the Deputy Collector Land Reforms did not have any jurisdiction. However, since the orders have been passed without due notice to the petitioner, the same require interference.

10. In the above background, the impugned order dated 30.09.2016 passed by the Bihar Land Tribunal in BLT Case No. 273 of 2016 and is set aside. The orders dated 03.05.2012 passed by the Deputy Collector Land Reforms and 30.12.2015 passed by the Commissioner, Saran Division are also set aside which is beyond jurisdiction.

11. Consequently, the matter is remanded back to the Circle Officer to pass appropriate orders from before the stage the Circle Officer had made recommendation to the Deputy Collector Land Reforms for passing appropriate orders after giving the parties due opportunity of hearing. If any adverse order is passed by the Circle Officer against any of the parties, they shall be at liberty to question the same, in accordance with



law.

12. This application is allowed with the observation
as aforesaid.

(Chakradhari Sharan Singh, J)

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