

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4532 of 2017

Azizul Quraishi Son of Late Abdul Shakoor Resident of Village- Amrakh,
P.S.- Maniayari, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
3. The Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
4. The District Magistrate Muzaffarpur, District- Muzaffarpur.
5. The Additional Director Muzaffarpur, District- Muzaffarpur.
6. The Deputy Collector, Land Reforms Muzaffarpur West, District- Muzaffarpur.
7. The Sub-Divisional Officer, Kurhni, District- Muzaffarpur.
8. The Block Development Officer, Block Kurhni, District- Muzaffarpur.
9. The Circle Officer Kurhni, Anchal- Kurhni, District- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Md. Anis Akhtar
For the State	:	Mr.Subhash Chandra Yadav-GP-15 Mr. Rakesh Kr. Srivastava, AC to GP 15

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 01-02-2019 Heard learned counsel for the petitioner and learned counsel, representing the respondent-State of Bihar.

The petitioner is aggrieved by the order dated 23.02.2017 (Annexure-11), passed in Rent Fixation Appeal No. 43/2016-17 by the Additional Collector, Muzaffarpur. Before the Additional Collector, Muzaffarpur, an order dated 29.07.2016, passed in Rent Fixation Case No. 09-2015-16 was under challenge, which was passed by the Deputy Collector Land Reforms. Against the said order dated 29.07.2016, the Circle Officer preferred an appeal before the Additional Collector, which has been disposed of by the impugned order dated 23.02.2017. By order dated 29.07.2016, passed by the



Land Reforms Deputy Collector, the rent was fixed. Collection of rent and issuance of rent roll in favour of the petitioner was accordingly directed.

It seems from the impugned order dated 23.02.2017 that the only point which the Additional Collector considered in the said appeal is that the Land Reforms Deputy Collector did not hear the side of the State Government. On this sole ground, while staying the order dated 29.07.2016, the Additional Collector has remitted the matter back to the Land Reforms Deputy Collector for passing a fresh order.

Learned counsel, appearing on behalf of the petitioner, has submitted that the Additional Collector, while remitting the matter back to the original authority, could not have simply stayed the order. He contends that the impugned order is arbitrary on the face of it.

Learned counsel, appearing on behalf of the State, has opposed the writ application, and has submitted that since the State Government was not given an opportunity of hearing, the appellate authority has rightly remitted the matter back for a fresh consideration and for passing a fresh order, after noticing that the State Government was not even given opportunity of hearing.



The impugned order dated 23.02.2017 is a short order.

Relevant portion of the order reads thus:-

"प्राप्त आपत्ति के आलोक में भूमि सुधार उप समाहर्ता, पश्चिमी मुजफ्फरपुर के द्वारा लगान निर्धारण वाद संख्या 09/15-16 में दिनांक 29.07.16 को पारित आदेश को स्थगित करते हुए पुनः विचारण एवं सभी पक्षों को सम्यक् सूचना देकर सुनवाई कर निर्णय हेतु वापस किया जाता है।"

Learned counsel, appearing on behalf of the petitioner appears to be correct in his submission. The Additional Collector could not have remitted the matter back to the original authority, without setting aside the order on good grounds. The impugned order dated 23.02.2017 is accordingly quashed. The Additional Collector, Muzaffarpur, is directed to pass an order afresh after giving due opportunity of hearing to the parties in Rent Fixation Appeal No. 43/2016-17.

This writ application is allowed to the extent indicated above.

(Chakradhari Sharan Singh, J)

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