

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3195 of 2018

In
Civil Writ Jurisdiction Case No.6346 of 2018

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Shahpur Matasyajivi Sahyog Samiti Ltd., Registration No.10-19-02-2011
through Secretary Mahendra Choudhary, Son of Late Gawahir Choudhary,
Resident of Village Prasounda (Karaila), P.O. Prasounda, P.S. Shahpur,
District Bhojpur at Ara.

... .. Petitioner

Versus

1. The State of Bihar.
2. Sri Sanjeev Kumar, the Collector/District Magistrate, Bhojpur at Ara.
3. Sri Surendra Prasad, the Additional Collector, Bhojpur at Ara.

... .. Opposite Party/s

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Appearance :

For the Petitioner	:	Mr. D.K. Sinha, Senior Advocate Mr. Om Prakash Upadhyay, Advocate Mr. Abhay Kumar Pandey, Advocate
For the Opposite Party/s :		Mr. P.K. Verma, A.A.G.1

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

16 10-07-2019 Heard Mr. D.K. Sinha, the learned Senior counsel

appearing on behalf of the petitioner and Mr. P.K. Verma, the

learned A.A.G.1.

The petitioner has filed this petition or initiation of
contempt proceeding against the opposite parties, Sri Sanjeev
Kumar, the Collector-cum-District Magistrate, Bhojpur at Ara
and Sri Surendra Prasad, the Additional Collector, Bhojpur at
Ara for their willful and deliberate disobedience of the order
dated 27.07.2018, passed in CWJC No.6346 of 2018.

Learned counsel for the petitioner submits that the
petitioner moved before this Court for cancellation of settlement



of Suhiya Bhagar Sairat in favour of the private respondent for the year 2018-19 mainly on the ground that the Sairat was settled in favour of the petitioner for three years from 2016-17, 2017-18 and 2018-19 but advertisement was issued on 10.03.2018 for settlement of different Sairat including Suhiya Bhagar Sairat for the financial year 2018-19. This Court by order dated 03.05.2018 directed the respondents authority not to settle the Sairat in question in favour of any other person but the opposite parties settled the Sairat and disclosed this fact that before the order dated 03.05.2018, the Sairat in question was settled in favour of respondent no.5 of the writ petition. The writ petition was allowed on 27.07.2018 and the order of settlement as contained in Memo No.842, dated 05.04.2018 (Annexure-5) of the writ petition was set aside. The petitioner filed the present case that even after setting aside the settlement order, the Collector on one pretext or the other did not issue fresh *Parwana* nor allowed the petitioner to fish out in the Sairat. It is further submitted that the Collector appeared in person, file show-casue and supplementary show-cause but the Collector reiterated the fact that the order passed by the Division Bench appears to be erroneous and this fact shows the obstinacy and scant respect of the Collector towards the order of this Court.



The financial year 2018-19 has already come to an end and the Sairat is settled after 31.03.2019 in favour of another person but the reserve *jama* deposited by the petitioner has not yet been returned. It is submitted that the Collector is liable to be prosecuted and he deserves to be punished suitably for his willful disobedience of the order of this Court.

Mr. P.K. Verma, the learned A.A.G.1 appearing on behalf of the contemnors submits that the contemnors have tendered unqualified apology. The Collector has pursued the LPA and after dismissal of L.P.A. No.1187 of 2018 and 1336 of 2018 on 12.03.2019, the Collector ordered for issuance of *Parwana* in favour of the petitioner but the financial year 2018-19 came to an end by 31st March, 2019 and thereafter fresh advertisement for settlement of the pond was issued. It is submitted that there is no willful negligence on the part of the Collector and the money deposited by the petitioner has already been sent to the petitioner but the petitioner refused to receive the same, therefore, the Collector may be exonerated from the present proceeding.

Having considered the submissions of both sides and on perusal of the records it appears that the private respondent filed L.P.A. No.1187 of 2018. The State of Bihar also filed



L.P.A. No.1336 of 2018. The petitioner filed M.J.C. No.4811 of 2018 before the Division Bench for initiation of contempt proceeding against the opposite parties. The Division Bench heard M.J.C. No.4811 of 2018, L.P.A. No.1187 of 2018 and L.P.A. No.1336 of 2018 and dismissed both the L.P.As. Upholding the judgment of the Single Judge. It appears further that by the same order, M.J.C. No.4811 of 2018 was also disposed of with a direction to the Collector to comply with the judgment of the Single Judge. The Collector in pursuance of the order dated 12.03.2019 cancelled the order of settlement made in favour of respondent no.5 and issued *Parwana* in favour of the petitioner but since the settlement year 2018-19 came to an end on 31.03.2018, the petitioner could not be able to fish out in the pond. From perusal of the supplementary show-cause filed by the Collector, the Collector tendered unqualified apology and stated that he did not commit any willful negligence or disobedience of the order of this Court. There appears that the Collector presented L.P.A. before the Division Bench against the order dated 27.07.2018, passed by this Court in CWJC No.6346 of 2018 on the facts and his understanding that the settlement of Sairat with the petitioner was made only till 31.03.2018 and there was early settlement. Even if the



settlement was taken to be for three years, the petitioner was also settlee of the Sairat of the year 2015-16 and the period of three years comes to an end on 31.03.2018. On the facts thus I find that the Collector has not committed any willful disobedience of the order of the Court and accordingly, the present contempt petition is dismissed. The Collector is directed to return the money deposited by the petitioner forthwith, if not returned as yet.

(Prabhat Kumar Jha, J)

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