

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.616 of 2018

- 1.1. Anjay Kumar Rai Son of Late Ramakant Rai Resident of Village - Koreya, P.S. Case no.- Bhareya, District - Gopalganj.
- 1.2. Dhanajay Kumar Rai Son of Late Ramakant Rai Resident of Village - Koreya, P.S. Case no.- Bhareya, District - Gopalganj.
2. Sanjay Rai, Son of Ramakant Rai Resident of Village - Koreya, P.S.- Bhorey, District - Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Land Reform Department, Bihar, Patna.
2. Divisional Commissioner, Saran Division, Chapra.
3. D.C.L.R. Hathua, Distt. Gopalganj.
4. Arbind Rai, Son of Baikau Rai Resident of village - Koreya, P.O. - Dubey Jigna, P.S. - Bhore, Distt. - Gopalganj.
5. Subindra Rai, Son of Baikau Rai Resident of village - Koreya, P.O. - Dubey Jigna, P.S. - Bhore, Distt. - Gopalganj.
6. Hare Ram Rai, Son of Baikau Rai Resident of village - Koreya, P.O. - Dubey Jigna, P.S. - Bhore, Distt. - Gopalganj.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mritunjay Prasad Singh
For the State	:	Mr. W.A. Khan, AC to SC 25
For the Respondent	:	M/s Koshalendra Rai
nos. 4 to 6	:	Navin Nikunj, Advocates

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
Date : 19-04-2023

Heard learned counsel for the parties.

The petitioner has filed the instant writ application for
the following relief(s):-

*“For issuance of writ of certiorari for quashing
the order dated 1.8.2017 passed by the "Member
Administrative of Bihar Land Tribunal, Patna"
passed in B.L.T. Case No.53 of 2016 by which he*



has set aside the order dated 10.10.2011 passed by the L.R.D. C. Hathua in B.L. D. R. Case No. 40 of 2011-12 and also the order dated 5.8.2015 passed by the Divisional Commissioner, Saran Division, Chapra in a B.L.D.R. Appeal No. 248 of 2012.

(ii) For issuance of such other writ or order or direction which may deem fit and proper for the ends of justice.”

The facts giving rise to the instant application is that an order of mutation was passed in favour of the private respondents by the Circle Officer on 6.9.2009. The petitioner preferred an application under section 4 of the Bihar Land Dispute Resolution Act, 2009 ('the BLDR Act' in short) before the Deputy Collector Land Reforms, Hathua which was registered as Land Dispute Resolution Case no. 40/2011-12. The learned DCLR, Hathua was pleased to allow the application filed by the petitioner and set aside the order of mutation in favour of the private respondents. The private respondents preferred an appeal against the said order before the Commissioner, Saran Division, Chapra which was registered as B.L.D.R. Appeal no. 248/2012. The learned Commissioner, Saran Division, Chapra by order dated 5.8.2015 was pleased to uphold the order passed by the D.C.L.R., Hathua and disposed of the appeal. The private respondents affected by the order of



the learned Commissioner, Saran Division, Chapra, preferred an appeal in the Bihar Land Tribunal, Patna which was registered as BLT Case no. 53 of 2016. The learned Member Administrative by his order dated 1.8.2017 was pleased to allow the said application preferred by the private respondents. It is against this order that the petitioner has preferred this application.

At the outset learned counsel for the respondent nos. 4, 5 and 6 submit that the very initial application filed by the petitioner under section 4 of the BLDR Act for setting aside the order of mutation in favour of the private respondents was not maintainable. In case the petitioner was aggrieved by the order of mutation passed in favour of the private respondents, the petitioner was required to prefer an appeal as provided under section 15 of the Bihar Tenants' Holding (Maintenance of Record) Act, 1973 and not under the BLDR Act as has been preferred by the petitioner. The very initial application filed under the BLDR Act not being maintainable, all the subsequent orders passed by the D.C.L.R. as also the Commissioner would be illegal and not sustainable. It is submitted that so far as the learned Member Administrative, Bihar Land Tribunal is concerned, he rightly allowed the application filed by the private



respondents. There is no illegality in the said order and there being no merit in the writ application, the same be dismissed.

Learned counsel for the petitioners submits that even under the old Act, the appeal under section 15 of the Bihar Tenants' Holding (Maintenance of Record) Act, 1973 would lie before the D.C.L.R.. The D.C.L.R. having passed the order in the instant case, there is no illegality in the same. The order was rightly upheld by the learned Commissioner and the learned Tribunal erred in setting aside the same and allowing the appeal of the private respondents.

Having heard learned counsel for the parties and taking into consideration the facts of the case and the submissions made, the Court finds merit in the submissions made by learned counsel appearing for the private respondents. The very initial application filed by the petitioner was under section 4 of the BLDR Act. The same was not maintainable as even prior to coming of the Bihar Land Mutation Act, 2011, the order of the D.C.L.R. was required to be challenged by the affected persons by filing an appeal as provided under section 15 of the Bihar Tenants' Holding (Maintenance of Record) Act, 1973. The very initial application filed by the petitioner being without jurisdiction, the order passed by the D.C.L.R., Hathua



and the Commissioner, Saran Division, Chapra were
consequentially without jurisdiction and rightly set aside by the
learned Member Administrative, the Bihar Land Tribunal.

There being no merit in the instant application, the
same is dismissed.

(Partha Sarthy, J)

Spd/-

AFR/NAFR	
CAV DATE	
Uploading Date	20.4.2023
Transmission Date	

