

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17223 of 2018

Manju Devi, Wife of Dilip Kumar, resident of Village- English, P.S. Lakhisarai, District Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Lakhisarai.
3. The Additional Collector, Lakhisarai.
4. The Deputy Collector, Land Reforms, Lakhisarai.
5. The Circle Officer, Chanan, District- Lakhisarai.
6. Suresh Prasad Singh, Son of Late Barho Singh.
7. Nawal Singh,
8. Ramesh Singh
9. Amrendra Singh.
10. Madan Singh, Sl. No. 7 to 10 are sons of Late Ram Swaroop Singh, Sl. No. 6 to 10 are resident of Village and P.O. Rampur, P.S. Surygarha, District- Lakhisarai.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mukesh Kumar Jha, Advocate Mr. Bhola Prasad, Advocate
For the State	:	Mr. Sajid Salim Khan, SC-25
For the Respondent no.6	:	Mr. Niraj Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 15-02-2023

Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the respondent no.6.

The instant application has been filed by the petitioner for the following relief(s):

“i) For quashing the order dated 12-1-2018 passed by the learned D. C. L. R., Lakhisarai in Misc. Case



No. 1/2016 whereby the petition for recall/ set aside the exparte order dated 27-9-2014 in Rent Fixation Case No. 3/2014 has been rejected.

ii) For quashing the ex-parte order dated 27-9-14 passed by the learned D.C.L.R., Lakhisarai in Rent Fixation Case No. 3/2014 whereby the Rent Fixation case has been allowed with respect to the land of the petitioner in favour of the respondent no. 6 to 10.

iii) For direction to the respondents D.C.L.R. Lakhisarai to comply the Principle of natural Justice and after providing opportunity of hearing to the petitioner pass a fresh order in Rent Fixation Case No. 3/2014 in accordance with law.

And for any other relief(s) for which the petitioner is found to be entitled in the facts and of circumstances of the case.”

At the outset, it is submitted by learned counsel appearing for the State that the order under challenge in the instant application is appealable under Rule 53(3) of the Tenancy Rules prescribed under the Bihar Tenancy Act.

Rule 53(3) of the Tenancy Rules under the B.T. Act is quoted herein below for ready reference:

“(i) Any person aggrieved by the order of the Land Reforms Deputy Collector may file an appeal in the Court of Additional Collector within 90 days from the date of the order. If the post of the Additional Collector is vacant, then the appeal will be filed in the court of Collector of the district.

(ii) The Additional Collector, if he is satisfied that



there are sufficient reasons for the delay, may condone the delay in filing appeals.

(iii) On appeal filed in the Court of Additional Collector, the Additional Collector shall, as soon as may be, call for the case record from the Land Reforms Deputy Collector concerned.

(iv) The Additional Collector shall issue notices to all parties concerned with the case, directing them to appear either in person or through their authorized representatives on the date, time and place fixed for the hearing of the case.

(v) The Additional Collector after hearing concerned parties and after perusing relevant papers, pass reasoned and speaking order.

(vi) The time limit for the disposal of rent fixation appeal shall be of ninety(90) working days from the date of filing of the rent fixation appeal.

(vii) After the disposal of rent fixation appeal, the Additional Collector shall return the case record to the Circle Officer concerned for the implementation of his order and the same will be communicated to the Land Reforms Deputy Collector.”

Having heard learned counsel for the parties and taking into consideration that the petitioner has an alternate and efficacious remedy by preferring the appeal under the aforesaid provision, the instant application is disposed of with a direction to the petitioner to prefer an appeal before the authority as prescribed under Rule 53(3) of the Bihar Tenancy Rules quoted



herein above.

If such an appeal is preferred by the petitioner within a period of four weeks from today, the authority concerned in deciding the application for limitation shall take into consideration the period for which the instant application was pending for adjudication before this Court.

The application stands disposed of.

(Partha Sarthy, J)

Avinash/-

AFR/NAFR	
CAV DATE	
Uploading Date	17.02.2023
Transmission Date	

