

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4661 of 2018

=====

Md. Moiuddin @ Md. Moti, Son of Late Shekh Injo, resident of Village-
Karhara, P.S.- Mahisi, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate-cum- Collector, Saharsa.
2. The Sub-Divisional Officer-cum-Sub-Divisional Magistrate, Sadar, Saharsa.
3. The Deputy Collector Land Reforms, Sadar, Saharsa.
4. The Circle Officer, Mahisi Block/Anchal, District- Saharsa.
5. The Circle Inspector, Mahisi Circle, District- Saharsa.
6. The Revenue Clerk/Halka Karmachari, Mahisi Block/Circle, District- Saharsa.
7. Sukrati Sada, Son of Late Thakko Sada, Resident of Village P.O.- Ajan, P.S.- Mahisi, District- Saharsa.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Mishra, Advocate Ms. Kalpna Kusum, Advocate Mr. Rishit Deo Kumar Singh, Advocate
For the Respondent/s	:	Mr. S.C. Yadav, GP-15 Mr. Dhurjati K Prasad, GP-14

=====

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

- 3 12-05-2023 1. Heard learned counsel for the petitioner and learned
counsel for the respondents.
2. The petitioner has filed the instant application for
the following relief(s):-

*“That the present writ application is
being directed for issuance of writ in the nature of
mandamus or any appropriate writ/writs
commanding the respondents concerned to take
immediate and effective steps for cancelling the land
settlement parcha issued in favour of respondent no.
7 and others in respect of the land measuring about*



2 bighas so purchased by the petitioner and his family members through registered sale deeds no. 8609 and 8610 duly and legally executed in the year, 1993 in their favour by the vendor of the said land, as such the said land belonging to the petitioner is in the nature of raiyati/Khatiyani land existing in their names, though the respondent Circle Officer did not follow and implement the guidelines issued by the respondent District Magistrate contained in letter no. 64 dated 05.01.1996 to the concerned Officer and issued settlement parchas in favour of the respondent no. 7 and others clubbing the said land in Gairmazarua land.”

3. As per the case of the petitioner, the land in question is 1.64 decimal of land bearing *Khata* no. 697 (old)/ *Khata* no. 908 (new), *Khesra* no. 1018 (old)/ *Khesra* no. 1666 (new) in *Mauza* Ghonghepur, *Thana* no.120 in Circle- Mahisi in the District of Saharsa.

4. Learned counsel for the petitioner submits that he received notice in a proceeding under section 144 of the Cr.P.C being Case no.2/2016 from the Court of the Sub-Divisional Officer, Sadar Saharsa. The said proceeding was disposed of by order dated 3.3.2016 narrating the case of the parties and observing therein that the dispute between the parties could not be decided in a proceeding under section 144 of the Cr.P.C.

5. Learned counsel for the petitioner submits that



from perusal of the order dated 3.3.2016, passed in the proceeding under section 144 of the Cr.P.C, it would transpire that with respect to the land in question, it is the first party therein who is respondent no.7 herein, who in support of her case contended that the land in question was settled in her favour in *Parcha* Case no. 4/1995-96. She further produced the *Jamabandi* receipt besides other documents. It is submitted that although no positive orders in favour of respondent no.7 was passed in the said proceeding, however, in view of the petitioner having come to know about the *Parcha* having wrongly been issued in favour of respondent no.7 in *Parcha* Case no. 4/1995-96, thus the instant application by the petitioner for the relief prayed for as quoted herein above.

6. In the opinion of the Court, the petitioner has an alternate and efficacious remedy under the Bihar Privileged Persons Homestead Tenancy Act, 1947 of filing an application for cancellation of *Parcha*.

7. This application stands disposed of giving liberty to the petitioner to pursue the remedy available to the petitioner under the said Act, before the authority concerned.

8. If such an application is preferred, the authority concerned shall proceed in accordance with law under the Act,



issue notice and after hearing all the affected parties concerned shall dispose of the same at the earliest preferably within a period of six months from the date of its filing.

8. It is clarified that the Court has not gone into the merits of the case of the parties.

9. This application stands disposed of with the above observations and directions.

(Partha Sarthy, J)

avinash/-

U			
---	--	--	--

