

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4620 of 2020

1. Janardan Prasad Gupta, son of Late Jangi Sah, resident of Village- Deuriya, Police Station- Akorhigola, District- Rohtas, At present all are resident of Village- Akorhigola, Police Station- Akorhigola, District- Rohtas.
2. Nagendra Prasad Gupta, son of Late Jangi Sah, resident of Village- Deuriya, Police Station- Akorhigola, District- Rohtas, At present all are resident of Village- Akorhigola, Police Station- Akorhigola, District- Rohtas.
3. Birendra Prasad Gupta, son of Late Jangi Sah, resident of Village- Deuriya, Police Station- Akorhigola, District- Rohtas, At present all are resident of Village- Akorhigola, Police Station- Akorhigola, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Land Reforms Department, Government of Bihar, Patna.
2. The District Magistrate, Rohtas at Sasaram.
3. The Deputy collector, Land Reforms, Dehri, District- Rohtas.
4. The Anchaladhikari, Dehri, District- Rohtas.
5. The consolidation Officer, Dehri, District- Rohtas.
6. Shankar Mahto son of Late Bigan Mahto Resident of Village- Deuriya, Post Office- Pahleja, Police Station- Akorhigola, District- Rohtas.
- 7.1. Vinod Mehta Son of Late Basawan Mahto, Resident of Village- Deuriya, Post Office - Pahleja, P.S. Akorhigola, District - Rohtas.
- 7.2. Pramod Kumar, Son of Late Basawan Mahto, Resident of Village- Deuriya, Post Office - Pahleja, P.S. Akorhigola, District - Rohtas.
- 7.3. Saroj Kumar, Son of Late Basawan Mahto, Resident of Village- Deuriya, Post Office - Pahleja, P.S. Akorhigola, District - Rohtas.

... .. Respondent/s

Appearance :

For the Petitioners	:	Mr. Rajani Kant Singh, Advocate
For the State	:	Mr. Dhurjati K Prasad, GP-14
For Respondent No.6	:	Mr. Jai Prakash Singh, Advocate
		Ms. Arti Kumari, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 28-11-2023

1. Heard learned counsels for the parties.

2. This writ application has been filed for quashing
the order dated 05.09.2006 passed by the learned District



Magistrate, Rohtas at Sasaram (Respondent No. 2) in Rent Fixation Appeal No. 20 of 2005 (Annexure-5 to the writ application). The dispute relates to R.S. Khata No. 347, R.S. Plot No. 364, Area 1.40 Acres; R.S. Khata No. 347, R.S. Plot No. 368, Area 0.32 Acres; R.S. Khata No. 347, R.S. Plot No. 434, Area 0.06 Acres situated in Mauza- Deuriya, P.S.- Akorhigola, District- Rohtas.

3. It is the contention of the petitioner that the land in question was originally in the ownership of Khas Mahal and then the learned Collector, Shahabad, settled 2.19 acres of land of Khata No. 231 in the name of Jangi Sah, father of the petitioner, vide Settlement Case No. 160/48-49 for which Rs. 52.50/- was deposited in Sub-Treasury Office, Sasaram vide Challan No. 10 dated 28.06.1950 and accordingly credit certificate was issued. Thereafter, Register II Tenant's Ledger was prepared in the name of the father of the petitioner and rent receipts were issued up to 1970. At the time of revisional survey operation, due to mistake of revision survey authorities, the land in question was recorded in the name of Bihar State. Jangi Sah, father of the petitioners, filed a case bearing Case No. 64 of 1979 under Section 10(4) of the Consolidation Act before the Consolidation Officer, Dehri, District- Rohtas (Respondent No. 5) for correction of record of right in respect of the disputed



land, who after having heard the parties vide order dated 15.12.1980 directed to prepare the record of right in the name of the father of the petitioners and rent was also fixed. The petitioners filed Case No. 01/04-05 in the court of learned Anchaladhikari, Dehri, District- Rohtas (Respondent No. 4) praying therein to fix the rent of the land in the light of the order dated 15.12.1980 passed by the learned Consolidation Officer, Dehri, District- Rohtas (Respondent No. 5) in Case No. 64/1979 by which the rent was already fixed. The father of the Respondent No. 6, Bigan Mahto, and father of Respondent Nos. 7.1-7.3, Basawan Mahto objected the claim of the petitioners on the ground that they have planted *Shisham* trees in the land in light of the agreement in between the Petitioner No. 1 and Respondent No. 6. After hearing the parties and local inspection of the entire material available on record, learned D.C.L.R., Dehri allowed the case of the petitioners vide his order dated 07.04.2005 and the record was sent back to the Anchaladhikari, Dehri for the needful. On the basis of the order dated 07.04.2005 passed by the learned D.C.L.R., Dehri, learned Anchaladhikari, Dehri, District- Rohtas (Respondent No. 4) issued Shudhi Patra related to rent in the name of petitioners and accordingly rent was fixed on 01.06.2005 of the land in question. Fathers of Respondent Nos. 6 & 7.1-7.3, Bigan Mahto



and Basawan Mahto filed Rent Fixation Appeal No. 20 of 2005 in the court of learned District Magistrate, Rohtas at Sasaram (Respondent No. 2) against the order passed in Rent Fixation Case No. 01/2004-05 by Anchaladhikari, Dehri, District- Rohtas (Respondent No. 4) and without giving an opportunity to the petitioners to defend their case, learned District Magistrate, Rohtas (Respondent No. 2) passed an *ex parte* order on 05.09.2006 (Annexure-5 to the writ application) and directed the D.C.L.R., Dehri to pass a fresh order.

4. Learned counsel for the respondents have submitted that this petition is fit to be dismissed on the ground of suppression of the material facts. Petitioner has not approached this court with clean hands. He has suppressed the fact that pursuant to the said order of the Collector, Rohtas passed in Rent Fixation Appeal No. 20 of 2005, the matter was heard at length by the Deputy Collector, Land Reforms, Dehri, District- Rohtas (Respondent No. 3) who started proceedings in Rent Fixation Case No. 01/2004-05 and issued notice to both parties and after hearing the parties, the Deputy Collector, Land Reforms, Dehri, District- Rohtas (Respondent No. 3) has held vide order dated 23.09.2009 that the possession of the petitioners is not in accordance with law and rejected the prayer for rent fixation by the petitioners. It is next submitted that the



writ petition is not maintainable on the ground that the petitioners have got alternative statutory remedy against the order impugned.

5. Considering the aforesaid facts and circumstances and conduct of the petitioners, this court is not inclined to interfere in the matter in its extra-ordinary writ jurisdiction, specially in view of the fact that the petitioners have not come with clean hands and have not stated anything about the order passed by the learned D.C.L.R.. It is settled law that suppression of material fact by a litigant disqualifies such litigant from obtaining any relief. In the present case, petitioner is not entitled to any relief if he has not made a full and true disclosure of facts but has, in order to put forward his case of a violation of this principle of justice, chosen to suppress the subsequent order dated 23.09.2009 passed by D.C.L.R., Rohtas.

6. In the aforesaid facts and circumstances, this writ application is disposed of with liberty to the petitioners to seek appropriate alternative remedy which is available to them in accordance with law.

7. It goes without saying that if any question of limitation arises before the competent authority, the same shall be considered, taking into consideration the fact that the petitioners were pursuing the issue before this Court under



Article 226 of the Constitution of India.

(Prabhat Kumar Singh, J)

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