

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5588 of 2023

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Saud Alam Son of Late Abdul Kalam, Resident of Village- Khiriawa Post Office and Police Station- Madanpur, District- Aurangabad.

... .. Petitioner/s

Versus

1. The Secretary, National Highway Authority of India, Government of India, New Delhi.
2. The Principal Secretary, Revenue and Land Reform Government of Bihar at Patna.
3. The Director, Land Acquisition Department, Government of Bihar at Patna.
4. The Collector at Aurangabad, District- Aurangabad.
5. The Additional Collector -Cum- Additional District Magistrate, Aurangabad, District- Aurangabad.
6. The Deputy Collector Land Reform at Aurangabad, District- Aurangabad.
7. The District Land Acquisition Officer Aurangabad, District- Aurangabad.
8. The Sub Divisional Officer, Aurangabad, District- Aurangabad.
9. The Anchal Adhikari, Anchal/ Post Office/ Police Station- Madanpur, District- Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shiv Kumar Dwivedy, Adv.
For the Respondent/s	:	Mr. Sajid Salim Khan, SC-25
	:	Mr. W. A. Khan, AC to SC-25
For the NHAI	:	Mr. S. N. Pathak, Adv.
	:	Mr. Saurav Nikuni, Adv.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 08-09-2023

Heard learned counsel for the petitioner and

learned counsel for the State.

2. The present writ petition has been filed for

setting aside the order dated 05.07.2022 passed by Joint

Signature of Additional Collector-cum-Additional District

Magistrate, Aurangabad and the Collector, Aurangabad in

Raiyati Approval Case No.242 of 2015-16 whereby and whereunder the *raiya* rights of the petitioner in the disputed land has been rejected with regard to Khata No.176, Revenue P.S. No. 785, Plot No.1459 and Rakwa-0.0223 Hectare.

3. Learned counsel for the petitioner submits the Circle Officer, Aurangabad, Deputy Collector Land Reform, Aurangabad and Sub-Divisional Officer, Aurangabad upon consideration of the documents, as well as, the report of possession for more than 30 years had recommended the declaration of *raiya* rights in the name of the petitioner. Counsel also submits that the *jamabandi* was open in the name of the petitioner and continued in his name since 1987-88 and rent receipt was granted to him up to 2018-2019 i.e. for more than 30 years, therefore, in this view of the matter he has lawful right on the said land. Counsel further submits that from the said order sheet, it transpires that there is no reason assigned as to why the Additional Collector, Aurangabad and Collector, Aurangabad have not considered the case of the petitioner and only one line finding is against him that the competent evidence has not been filed by the petitioner but what are the competent evidence, which has not been produced, has not been mentioned.

4. Learned counsel for the State submits that the said order has been passed under the Bihar Land Reforms Act, 1950 (Bihar Act 30 of 1950). Counsel further submits that there is a resolution issued by the Government of Bihar vide Memo No.925 dated 11.11.2014, in which it has been decided that those lands, which were under the possession of the former landlord or their heirs and legal representatives in whose names rent receipts were granted, against them the action has to be taken under Sections 5, 6 and 7 of the Bihar Land Reforms Act, 1950 (Bihar Act 30 of 1950). Counsel further submits that the said order dated 05.07.2022 has been passed completely applying the law laid down under Sections 5, 6 and 7 of the Bihar Land Reforms Act, 1950.

5. At the time of passing the order dated 05.07.2022, neither the Additional Collector, Aurangabad nor the Collector, Aurangabad has whispered about the applicability and consideration of the document on the basis of which the order was passed.

6. As such, in view of this Court, the order dated 05.07.2022 is absolutely perverse, non-speaking, lack of legal knowledge and also lacking the appreciation of the documents as to which of the documents are not competent and non-

considerable, as such, the order dated 05.07.2022 passed in Swamitwa Satyapan Case No.242 of 2015-16 is hereby set-aside.

7. In this view of the matter, petitioner is directed to file a fresh representation before respondents within four weeks from today, along with the order of this Court. The respondents are directed to pass order afresh after providing opportunity of hearing to the petitioner and upon considering all the documents, as well as, the provisions of law, within 8 weeks thereafter.

8. With the aforesaid direction, the present writ petition is hereby disposed of.

Ashishsingh/-

(Dr. Anshuman, J.)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	11.09.2023
Transmission Date	N.A.