

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14122 of 2015

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Asha Lata Devi W/o Kapil Deo Prasad Verma resident of Village- Chakdin,
P.O. Chakdin, P.S. Asthawan, District- Nalanda.

... .. Petitioner/s

Versus

1. The State Of Bihar through Collector, Nalanda at Biharsharif
2. The Collector Nalanda at Biharsharif.
3. The Sub Divisional Officer, Biharsharif, Nalanda.
4. The Deputy Collector Land Reforms Biharsharif Nalanda.
5. Anchal Adhikari Asthawan, Nalanda.
6. The Superintendent of Police Nalanda at Biharsharif.
7. The Police In-Charge Asthawan Police Station, Nalanda.
8. Vijay Kumar Yadav S/o Ganga Yadav resident of Village- Chakdin, P.O. Chakdin, P.S. Asthawan, District- Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bal Bhushan Choudhary, Advocate
For the Respondent/s : Md. Shahid Siddiqui, AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 21-09-2023 Learned counsel for the petitioner is directed to make correction in paragraph-1 of the prayer portion as he submits that inadvertently he has given Land Dispute Case No.107 of 2011-12 instead of Miscellaneous Case No.107 of 2011-12. He is permitted to correct the same in course of the day.

2. Heard learned counsel for the petitioner and learned counsel for the State.



3. The present writ application has been filed for setting aside the order dated 28.02.2012 passed in Miscellaneous Case No.107 of 2011-12 and order dated 04.11.2011 passed in Land Dispute Case No.37 of 2011-12 by the DCLR, Biharsharif, Nalanda.

4. Learned counsel for the petitioner submits that Land Dispute Case No.37 of 2011-12 has been initiated on letter No.594 dated 08.07.2011 by the S.D.O., Biharsharif, and in the said case notice has not been served upon the present petitioner and in her absence the said order was passed.

5. Learned counsel for the petitioner submits that upon getting information about passing of the said order the petitioner has filed Miscellaneous Case No.107 of 2011-12 by which request was made to set aside the order dated 04.11.2011, passed in Land dispute Case No.37 of 2011-12 and hear the case afresh on merit but the prayer of the petitioner was rejected vide order dated 28.02.2012. Thereafter, this petitioner has moved before this Court by way of filing the present CWJC to set aside the ex-parte order as well as the order passed in Misc. Case No.107 of 2011-12.

6. Learned counsel for the private respondent



submits that order passed by the DCLR in Misc. Case No.107 of 2011-12 is absolutely in accordance with law as the D.C.L.R. has no power to review. But on the other hand he admits that the Land Dispute Case No.37 of 2011-12 has been passed behind back of the petitioner as in the conclusive paragraph of the said order dated 04.11.2011 it has been categorically mentioned that the petitioner could not produce any document or evidence in her favour.

7. Upon considering the documents as well as hearing of the parties, it transpires to this Court that the order dated 04.11.2011 passed in Land Dispute Case No.37 of 2011-12 has been initiated not on the application of the parties; rather it has been initiated on the application/letter sent to the DCLR by the S.D.O. Biharsharif, in which notice was not validly served upon the present petitioner. As such, the petitioner could not defend herself before the Court and subsequently his Misc. Case No.107 of 2011-12 has also been rejected.

8. In this background, before the original Court the petitioner was granted no opportunity to defend. Let both the orders dated 28.02.2012 passed in Misc. Case No.107 of 2011-12 and order dated 04.11.2011 passed in Land Dispute



Case No.37 of 2011-12 by the DCLR, Biharsharif, Nalanda are hereby set aside and the petitioner is directed to file all her defence before the DCLR, Biharsharif, Nalanda, in Land Dispute Case No.37 of 2011-12.

9. The DCLR, Biharsharif, Nalanda, is directed to issue fresh notice and grant opportunity to defend the private respondent, shall decide this case on merit within six months from the date of completion of appearance.

10. With this direction, the writ petition is allowed.

(Dr. Anshuman, J)

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