

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12764 of 2023

Sanjay Kumar Son of Jageshwar Prasad, Resident of Bharaupar, Murarpur,
P.O.- Biharsharif, P.S.- Laheri, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Land Reform and Revenue Department, Bihar, Patna.
2. The Collector, Nalanda.
3. The Deputy Collector, Land Revenue Bihar Sharif, Nalanda.
4. The Circle Officer, Bihar Sharif, Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Manoj Kumar Singh, Advocate
For the Respondent/s	:	Mr.Md. Khurshid Alam (Aag12)
		Mrs. Nutan Sahay, AC to AAG-12

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 11-12-2023 Heard learned counsel for the petitioner and learned
A.C. to Addl. Advocate General – 12.

2. This writ application has been filed for issuance of direction upon the respondents not to interfere or make any construction over the land of the petitioner appertaining to Khata No. 376, Thana No. 326, Mauza - Mahanadpur, Circle – Biharsharif without following mandatory provisions of law for acquisition of land.

3. It is the contention of the petitioner that the land in question was purchased by the petitioner from Kamla Prasad @ Laldhar Prasad and his wife Keshri Devi, vide registered sale-deed no. 10968 dated 21.09.2011. The aforesaid land was



purchased by this petitioner from Ramdhani Gope and thereafter, petitioner approached the Circle Officer (Respondent no. 4) in Mutation Case No. 3176/2017-18. However, the Circle Officer, vide order dated 21.12.2017, rejected the said mutation case without considering the inquiry report submitted by the Circle Inspector. Being aggrieved by the said order, the petitioner preferred Mutation Appeal No. 30/18-19 before the D.C.L.R., Biharsharif and after hearing the parties the appeal was remanded to the court of Circle Officer to pass a fresh order after considering the inquiry report properly in terms of Government directives, vide order dated 25.10.2019. The aforesaid case i.e. Mutation Case No. 3176/2017-18 remained pending for disposal till 16.12.2021 and as such, the petitioner moved before this Court by filing C.W.J.C. No. 21208 of 2021, which was disposed of with a direction to the Circle Officer / Respondent no. 4 to dispose of the mutation case within a week. In compliance of the aforesaid order of this Court, the respondent no. 4 disposed of said mutation case rejecting the petitioner's claim, vide order dated 17.09.2022. Being aggrieved with the said order, the petitioner preferred an appeal, which is pending before the L.R.D.C., Biharsharif, Nalanda.

4. It is settled law that if a party is actively pursuing



an alternative remedy, relief under Article 226 of the Constitution of India, must be refused, as the petitioner cannot be allowed to pursue two parallel proceedings, where the statute has provided an appeal to the higher authority in the administration and the appeal to the statutory authority has actually been filed, a writ petition filed in the High Court during the pendency of the statutory appeal is not maintainable as the petitioner has not exhausted the alternative remedy.

5. In this regard, the Supreme Court, in a case reported in 2016 (10) S.C.C. 767, has observed:

“Pursuance of multiple remedy for same relief before different fora renders the petition non-maintainable.”

6. In the present case, the petitioner has filed an appeal before the L.R.D.C., Biharsharif, Nalanda and the same is still pending.

7. In that view of the matter, no positive order is required to be passed and the writ petition is, thus, dismissed.

(Prabhat Kumar Singh, J)

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