

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1786 of 2023

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1. Vishwanath Prasad Son of Basudeo Sao (Legal Heirs of Rameshwari Devi) Resident of Village-Chewara, P.S. Chewara, District-Sheikhpura
 2. Jagarnath Sao Son of Baso Sao (Legal Heirs of Rameshwari Devi) Resident of Village-Chewara, P.S. Chewara, District-Sheikhpura

... .. Petitioner/s

Versus

1. The State of Bihar through Collector-cum-District Magistrate, Sheikhpura.
2. The Collector-Cum-District Magistrate, Sheikhpura
3. The Sub-Divisional Magistrate, Sheikhpura
4. The Deputy Collector Land Reform, Sheikhpura
5. The Circle Officer, Chewara, District Sheikhpura
6. The Superintendent of Police, Sheikhpura.
7. The Officer-in-Charge, Chewara Police Station, District-Sheikhpura.
8. Rajniti Mahto Son of Rambriksh Mahto @ Rambriksh Nonia. Resident of Village-Chewara, P.S. Chewara, District-Sheikhpura.
9. Ram Bilas Mahto Son of Rambriksh Mahto @ Rambriksh Nonia, Resident of Village-Chewara, P.S. Chewara, District-Sheikhpura.
10. Jagdish Mahto Son of Rambriksh Mahto @ Rambriksh Nonia, Resident of Village-Chewara, P.S. Chewara, District-Sheikhpura.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Satya Prakash Parasar, Advocate
For the Respondent/s : Mr. Navnit Kumar, AC to GP18

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

2 13-04-2023 Heard learned counsel for the petitioners and learned
counsel for the State.

The petitioners have filed the instant application for
the following relief(s) :

*“(i) For issuance of writ in the nature of
certiorari for quashing of the Notice contained in
Memo No. 168 dated 27.4.2022 issued by the
Circle Officer, Chewara to the father of the
petitioner who is now dead whereby and where*



under the Notices were issued in purported compliance of the direction of this Hon'ble Court passed 8978/2014 order dated though the order in CWJC No. 25.10.2016 even which are being complied has been passed without being heard the necessary parties including the petitioners and same has been obtained on the basis of suppression of material respondents. facts by the private

(ii) For further setting aside the order dated 8.9.2012 passed in Land Dispute Resolution Case No. 79/2011-12 by the Deputy Collector Land Reform, Sheikhpura which has been passed without hearing the petitioners and hold the same without jurisdiction as under the Bihar Land Dispute Resolution Act the Deputy Collector Land Reform cannot decide the right title of the party.

(iii) For further to award exemplary cost upon the private respondents who have misused the judicial process of this Hon'ble Court of false and fictitious ground and after suppression of material fact from this Hon'ble Court by filing successive application on nonest ground.

(iv) And for any other relief/reliefs for which the petitioners are found to be entitled in the eye of law.”

It is the case of the petitioners that the petitioners are effected by the notice issued by the Circle Officer, Chewara as contained in letter no. 168 dated 27.4.2022 (Annexure- P/7).



Learned counsel for the petitioners submits that the facts giving rise to the instant notice is that the mother of the petitioners had purchased a piece of land which was the subject matter of Title Suit no. 78/1976. Without impleading the mother of the petitioners in the said suit, judgment and decree was obtained which led to the mother of the petitioners filing an application under Order XXI Rule 99 of the Civil Procedure Code which was registered as Misc. Case no. 13 of 1984. The said miscellaneous case was decided by order dated 8.8.1989 (Annexure-2) passed by the learned Sub Judge, II, Munger.

Suppressing these facts, learned counsel for the petitioners submits that an order dated 8.9.2012 was obtained by the father of the respondent nos. 8, 9 and 10. It is submitted that the same was passed without hearing the necessary parties. Subsequently one Rambriksh Mahto (father of respondent nos. 8, 9 and 10) filed C.W.J.C. no. 8978 of 2014 in this Court which was disposed of by order dated 25.10.2016 giving liberty to the petitioner therein to approach the Authority under section 15 of the Land Dispute Resolution Act to get the order passed by the DCLR in Land Dispute Resolution Case no. 79/2011 executed. Pursuant thereto M.J.C. no. 281/2021 was filed alleging non-compliance of the directions. It is these facts which has led to



the Circle Officer, Chewara issuing the impugned notice dated 27.4.2022 which is under challenge in the instant application.

The application is opposed by learned counsel appearing for the State respondent.

Having heard learned counsel for the parties and having perused the material on record what transpires is that the notice dated 27.4.2022 issued by the Circle Officer, Chewara which is impugned in the instant application is for implementation of the order dated 8.9.2012 passed by the DCLR, Sheikhpura. It is not in dispute that the said order of the DCLR not having been challenged by any of the parties, still stands and has to be implemented. In case the petitioners are aggrieved by the said order passed by the DCLR, Sheikhpura, they need to challenge the same before the appellate authority under the Act which would be the Bihar Land Tribunal.

At this stage, learned counsel for the petitioners seeks permission to withdraw this application to challenge the said order dated 8.9.2012 passed by the DCLR, Sheikhpura before the learned Bihar Land Tribunal, Patna.

This application is disposed of as withdrawn with the aforesaid liberty.

It may be stated here that in considering the petition



filed by the petitioner for condonation of delay, the learned Tribunal will take into consideration the period for which the instant application was being pursued by the petitioners in this Court.

It may also be clarified that the challenge to the order dated 8.9.2012 by the petitioners is to be considered by the Bihar Land Tribunal on the materials on record without being prejudiced by any order/observation made hereinabove.

Taking into consideration that the petition under Order XXI Rule 99 filed by the mother of the petitioners which led to registration of Miscellaneous Case no. 13 of 1984 and which was decided in favour of the petitioners' mother by order dated 8.8.1989 (Annexure-2) by the learned Sub Judge II, Munger, it is directed that in case the petitioners prefer an appeal before the learned Bihar Land Tribunal within a period of three weeks from today and also make an application for grant of interim order, no coercive action shall be taken by the respondent authorities for a period of six weeks from today or till the first date of hearing by the Bihar Land Tribunal, whichever is earlier.

(Partha Sarthy, J)

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