

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1743 of 2017

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Sudarshan Paswan Son of Late Gauri Paswan, Resident of Village- Hatta,
P.S.- Chenari, District- Rohtas at Sasaram.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Member Administrative of Bihar Land Tribunal Patna.
3. The Additional Collector, Rohtas, Sasaram.
4. The Deputy Collector Land Reforms, Sasaram.
5. The Anchal Adhikari, Chenari, Rohtas.
6. Haridwar Paswan Son of Late Teju Paswan, Resident of Village- Hatta, P.S.-
Chenari, District- Rohtas at Sasaram.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Radha Mohan Pandey, Advocate Mr. Chandra Shekhar Verma, Advocate
For the Respondent/s	:	Mr. Dhurjati Kumar Prasad, GP-14

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 30-04-2024 Heard Mr. Radha Mohan Pandey duly assisted by Mr.

Chandra Shekhar Verma, learned counsel for the petitioner and

Mr. Dhurjati Kumar Prasad, learned GP-14.

2. The present petition has been preferred for grant of
following relief/s:-

*“That this is an application against
the order dated 14.09.2016 passed by
Member Administrative of Bihar the land
Tribunal, Patna (Respondent no.2) in Bihar
Land Tribunal Case No. contained in*



Annexure-8 723 of of the 2015 writ petition purporting to Act under section 9 of the Bihar Land Tribunal Rules, 2010 who has allowed the Bihar Land Tribunal case filed by the respondent no.6 and set aside the order dated 17.03.2015 passed by the learned Additional Collector, Sasaram (Respondent Revision No. 92 Rohtas, no. 3) in Mutation of 2013/08 of 2013 illegally and also set aside the order dated 16.07.2012 passed by learned D.C.L.R. Sasaram, Rohtas (Respondent no.4) in Misc. case No. 92 of 2002-03 illegally. The petitioner pray that illegal order should not be enforced by issuance of an appropriate writ, direction or order.”

3. A perusal of the different orders would show that each revenue authorities have exceeded their jurisdiction. The respondent No. 6, Haridwar Paswan and the petitioner Sudarshan Paswan are cousin brothers.

4. Earlier respondent No. 06 moved before Circle Officer, Chenari in Misc. Case No. 8 of 1998-99 and the Circle



Officer vide an order dated 08.12.1998 while approving the petition of the respondent No. 6 went a step further and also fixed the “*lagaan*”/rent which he is not supposed to do and is not within his domain.

5. Aggrieved, the petitioner moved before the Deputy Collector Land Reforms, Sasaram in Misc. Case No. 92 of 2002-03 which came to be disposed of on 16.07.2012 and he too gave his own interpretation allowed the petition of the petitioner herein by default stating therein that as the opposite party is not in possession, the petition is allowed.

6. The relevant paragraph is incorporated hereinbelow:-

“Actually petitioner possession over the land is essential for the order of mutation. Only a prima facie case of title can not be looked into while considering the case of mutation, But actual possession is essential. The report discussed above show that the O.P. is not in possession over the disputed land.

In the result, the petition of the petitioner is allowed setting aside the order passed in mutation case no. 8-98-99.

Dictated and corrected by me.

Sd/- Illegible,

16.7.12.



D.C.L.R. Sasaram.”

7. Once again, it was the turn of the respondent No. 6 to approach the Additional Collector, Rohtas (Sasaram) in Revision Case No. 92/2013-08/2013 which was rejected on 17.03.2015 whereafter the respondent No. 6 preferred BLT Case No. 723 of 2015 before the Bihar Land Tribunal, Patna.

8. The parties were put on notice and vide an order dated 14.09.2016, the BLT observed as follows:-

“Having heard the parties it is clear, that the land belongs to the government of Bihar in the revisional survey. But the petitioner went before the competent authority under Section 103 of Bihar Tenancy Act. And got ordered the country in his name. Whether both parties are in jointness is not the subject matter of this tribunal. The order of the DCLR and the Additional Collector are set aside and the petition allowed. Let the opposite party go before the Civil Court to declare the right and share in the property if any.”

9. Learned counsel for the petitioner submits that by passing a cryptic order, the BLT negated the concurrent findings



of the D.C.L.R. and the Additional Collector thus adversely affecting his case.

10. Learned State counsel on the other hand on the basis of the contents of the orders submit that a bare perusal of the different orders would show that each and every official exceeded his/her jurisdiction and in that background, the BLT was fully justified in directing the parties to approach the competent Civil Court for final adjudication of the case.

11. This Court is in full conformity with the submissions put forward by the parties specially the learned State counsel inasmuch as right from the Circle Officer, upwards, the authorities have passed orders completely ignoring the fact that the complex/disputed question can only be adjudicated by a competent Civil Court. This Court cannot lose sight of the facts that both the petitioner and the respondent no. 6 are cousin brothers having same genealogical table.

12. Learned counsel for the petitioner submits that he will be approaching the competent Civil Court for getting the Title of the land in question decided.

13. In view of the limited prayer made by the learned counsel for the petitioner, this Court observes that if the petitioner approaches the competent Civil Court for deciding the



Title of the land in question, the same shall be decided after putting the respondent No. 6 as also other stake holders on notice and any observation made by any of the revenue authorities right from the Circle Officer, Chenari, the DCLR, Sasaram, the Additional Collector, Rohtas at Sasaram as also the BLT shall not be taken into consideration and the suit shall be decided on its own merit.

14. The present writ petition stands disposed of with aforesaid observation.

(Rajiv Roy, J)

Adnan/-

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