

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11618 of 2017

1. Barfi Devi Wife of Late Dhondha Ram
2. Umesh Ram son of Late Dhondha Ram
3. Biresh Ram son of Late Dhondha Ram
4. Shambhu Ram son of Late Dhondha Ram
5. Phulpati Devi daughter of Late Dhondha Ram
6. Raj Bhauti Devi d/o late Dhondha Ram All resident of Village - Sarupahi,
P.O. Jagdishpur, P.S. Vijayee pur, District Gopalganj.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner, Saran Division, Chapra.
3. The Collector Gopalganj, District Gopalganj.
4. The Bihar Land Tribunal through its Registrar, Patna.
5. The Sub Divisional Officer Hathua Gopalganj.
6. The Circle Officer Vijayee pur Gopalganj.
7. The Anchal Amin Vijayee pur Gopalganj.
8. The Bhoodan Yagna Committee through its Chairman, Patna.
9. Chandradeo Ram son of late Bansi Ram
10. Shri Ram Ram son of late Raj Mangal Ram
11. Ramnath Ram son of late Raj Mangal Ram
12. Soniya Devi D/o Rajnandan Ram
13. Indradeo Ram son of late Rajman Ram
14. Tribeni Ram son of Late Rajman Ram
15. Chandeo Ram son of Late Ghanshyam Ram
16. Shaminath Ram son of Late Ghanshyam Ram
17. Patiraj Ram son of Late Ghanshyam Ram
18. Samundari Devi wife of late Jainath Ram
19. Shambhu Ram son of Late Jainath Ram
20. Tara Devi d/o Late Jainath Ram
21. Parbati Devi d/o Late Jainath Ram
22. Fuleshwari Devi w/o Late Anirudh Ram
23. Rabri Devi d/o Late Anirudh Ram
24. Kadami Devi d/o Late Anirudh Ram
25. Satyendra Ram son of Late Anirudh Ram
26. Sanjay Ram son of late Anirudh Ram



27. Rudal Ram son of Late Aadi Ram
28. Uma Ram son of late Aadi Ram
29. Kishnath Ram son of late Darika Ram
30. Ram Bhaju Ram son of late Shamguli Ram
31. Ram Das Ram son of late Lachhan Ram
32. Mahesh Ram son of late Ram Awadh Ram
33. Subhash Ram son of Late Ram Awadh Ram
34. Suresh Ram son of late Ram Awadh Ram All respondents no. 9 to 29 are residents of village Sarupahi PO Jagdishpur, PS Vijayeeupur, Distt. Gopalganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Manish, Advocate
For the Respondent/s : Mr. Ram Shankar Prasad, AC to GP-14
For the Bhoodan : Mr. Alka Verma, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 15-04-2024 Heard learned counsel for the petitioners and the State.

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

“i. For issuance of writ in the nature of Certuorari for quashing the order dtd 1.8.2017 passed by Mr. K.P Ramaiah Member Administrative Bihar Land Tribunal Patna in B.L.T. Case No 196/2016 (as contained in Annexure-3) whereby and whereunder he has dismissed the case without giving any reasons order by



confirming the order of the Learned District Collector and the Divisional commissioner and the order dtd à 1.8.2017 has also been passed without Jurisdiction.

ii. For further issuance of writ in the nature of Mandamus directing commanding the concern respondents to vacate the disputed plot from the private respondents which have forcibly been occupied by them.

iii. The writ petitioners further pray before this Hon'ble court to hold and adjudicate that earlier the enquiry report submitted by the circle officer Vijayee pur Gopalganj vide its Letter no133 dtd 16.2.2017 is legal and valid which was done in pursuance to the direction of Hon'ble Member (Judicial) Bihar Land Tribunal Patna in E.L.T.Case NO 196/2016(as contained in Annexures-7 Series)

iv. The writ petitioners also pray before this coase Hon'ble Court to hold anad adjudicate thatthe order dtd 1-8-2018 issued



in B.L.T. Case no. 196/2016 is without Jurisdiction and to Stay the aforesaid order.

v. The writ petitioners also prays before this Hon'ble court to pass any other and appropriate writ writs, order, Orders direction, directions as this Hon'ble court may deem fit and proper in the facts and circumstances of this case."

3. From the facts of the case, which can be taken into consideration from the order of the Collector, Gopalganj that while the petitioners herein claimed the land (Khata No. 234 and plot No. 932) to be their own on the basis of its settlement from the Bihar Bhoodan Yagna Committee in favour of the husband of petitioner no. 1 namely Dhonda Ram, the case of the respondent Nos. 9 to 34 is/are that they are in possession of nine *katthas* of land having residential house 'Nath'/'Khuta'/'Bhatan' as also some trees on it as also some of the houses having been constructed under the 'Indira Awas Yojana' while rest 6 *khattas* of land is/are in possession of the petitioners herein.

4. The Office of the Circle Officer, Vijayee pur, Gopalganj earlier decided the matter in favour of the petitioners



duly stamped by the Sub-Divisional Officer, Hathua, Gopalganj on the basis of the favourable inquiry report of the Circle Officer/Karamchari which was challenged by the respondents herein in appeal before the Collector.

5. The Collector, Gopalganj (respondent No. 3) vide its order dated **16.04.2012** in **Jamabandi Appeal Case No. 7 of 2019** (*Chandradeo Ram vs Barfi Devi and others*) held that a bare perusal of the order in question would show that the revenue authorities did not visited the land in question (ground zero) before submitting its report which form the erroneous decision of the Sub-Divisional Officer, Hathua on the recommendation of the Circle Officer, Vijaypur. He, accordingly, after hearing both the parties allowed the appeal thus negating the order of the Court below (Annexure-5 to the writ petition).

6. Aggrieved, the petitioners moved in **Jamabandi Revision No. 170 of 2012** (*Barfi Devi and others vs Chandradeo Ram and others*) which was taken up by the Commissioner, Saran Division, Chapra on **26.10.2015** and having been convinced with the findings of the Collector, Gopalganj rejected the claim. The relevant part is incorporated hereinbelow:-



“Considering the facts and circumstances of the case, material available on records and on perusal of the impugned order, it is seen that the said rent fixation for the 56 decimal of land in favour of the petitioner was done by SDO, Hathua on the recommendation of Karmachari, C.I. and C.O. of Vijaypur. Thereafter, the present respondents lodged a complaint before Collector, Gopalganj that the said rent fixation with respect to 56 decimal of land has been done without making any local inspection by the revenue authorities and the fact is that the present petitioner have only 6 katha of land in their possession whereas over 9 katha of land the present respondents old house, Nad, Khutha and some old tree exist and having some houses also made under IAY scheme. The learned Collector after carefully examining the entire records relating to rent fixation came to the finding that the said rent fixation has been done on



the superficial report of Karmchari and even the present respondents were not heard and on these ground he cancelled the sald rent fixation order passed by SDO, Hathua. Obviously, there appears to be no illegality in the said findings of the learned Collector in view of the fact that he has assigned sufficient reasons for his sald conclusions. Even the learned counsel for the petitioner failed to point out any specific illegality in the said order.

Thus, for the aforesaid reasons, the impugned order is upheld and this revision petition being devoid of any merit is dismissed.”

7. Still aggrieved, the petitioners moved in **BLT Case No. 196 of 2016** before the Bihar Land Tribunal, Patna.

8. The matter was taken up by the Member, (Judicial) earlier who vide an order dated 17.01.2017 has called for a report from the Circle Officer, Vijayee pur.

9. The Circle Officer, Vijayee pur thereafter submitted its report vide letter no. 133 dated 16.02.2017 (Annexure-7



series) in which, though he accepted to have found house on the land in question, it went by the statement of the locals /then 'Mukhiya' to record that the said house is not under the 'Indira Awas Yojana'.

10. The matter was finally taken up by the Member (Administrative) on 01.08.2017 and having taken note of the facts of the case, the appellate order as also the revisional order chose not to interfere with the two aforesaid orders thus dismissing the application. Paragraphs 9 and 10 record the observation of 'the BLT' and read as follows:-

9. The present petitioner moved before the Divisional Commissioner, Saran Division Saran at Chapra vide Jamabandi Revision Case No. 170 of 2012 challenging the order of District Collector. The Divisional Commissioner also find merit in the order of Collector and has held vide order dated 26.10.2015 that the order of Collector is correct in as such as it has been passed to uphold the natural justice, it has set aside the order based on the superficial report of Karamchari without verifying the fact the



land in question bears old trees, some houses of present opposite parties made under Indira Awas Yojna Scheme. The Commissioner, saran Division, Chapra upheld the order of Collector and has justified the quashing of the order of sub Divisional Officer, Hathua. Aggrieved by the order of Divisional Commissioner, the petitioners have approached the present Tribunal.

10. The opposite parties have been on the aforesaid 56 decimal land with their residential, Nads, Khutas, Bathans, Ten Bamboo Clusters and various kinds of trees 25 in numbers and also a few houses of some of the opposite parties constructed through Indra Awas Yojna. The report of Halka Karamchari and Circle Inspector was without actually going to the sight which is apparent from the report annexed as Annexure-3 have been answers in a formal way without there being any description. The



clause 10 of the report has been given amiss regarding the trees on the inspected land. Even the clause 11 deals with dispute of the land, which has been given a negative by the report maker. Further clause 2 in relation to the possession has been wrongly mentioned to be in the possession of present petitioner or Dhondha Ram. It is apparent that if the said was in possession, there was no need for asking the opposite parties to evict the same by using the State machinery, which in fact has come in light in the order sheet of District Magistrate. The report is erroneous as it has failed to notice the residential houses of opposite parties including the houses constructed under Indira Awas Yojna.

On perusal, it appears that there is no point in which the Tribunal can interfere with. The order of the learned District Collector and the Divisional Commissioner are confirmed. This application is dismissed.”



11. Still aggrieved, the present writ petition. Learned counsel for the petitioners submits that despite the Circle Officer upon enquiry found that the house has not been constructed under the 'Indira Awas Yojana', 'the BLT' ignored and upheld the order of the Collector, Gopalganj as also the Commissioner, Saran Division, Chapra.

12. The State on the other hand justified the successive orders of the Collector, Gopalganj, the Commissioner, Saran Division, Chapra and 'the BLT'.

13. Having heard learned counsel for the petitioners and the State as also perusing the orders passed by the Circle Officer, Vijayee pur, the Collector, Gopalganj, the Commissioner, Saran Division, Chapra and the Member, Administrative, BLT, this Court is convinced that the report that form the basis for the Circle Officer, Vijayee pur to make a recommendation and the Sub-Divisional Officer, Hathua to pass an order was erroneous one. This reflects from the fact that after the orders of the Appellate as well as the Revisional Authority, when the matter travelled to 'the BLT', it sought a report from the Circle Officer, Vijayee pur vide an order dated 17.01.2017.

14. The Circle Officer, Vijayee pur thereafter made inquiry and visited the ground zero where he found residential



house. It is important to note that the 'Indira Awas Yojana' houses are constructed on the financial grant being made by the Government and the Circle Offices have full record of it. Deliberately ignoring the said fact as also recording the finding that whether its office record show the said house to have been made under the 'Indira Awas Yojana' or not as claimed by the private respondents, after recording the presence of the house, it went by the information given by the locals/'Mukhiya' that it has not been constructed under the 'Indira Awas Yojana'.

15. Clearly, this erroneous report shows that earlier inquiry made was faulty inasmuch as on the second inquiry, the house was found present.

16. Considering the aforesaid facts, this Court does not find any error in the successive findings of the Collector, Gopalganj, the Commissioner, Saran Division, Chapra as also the Member, Administrative, Bihar Land Tribunal.

17. The present writ petition stands dismissed.

(Rajiv Roy, J)

Adnan/-

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