

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.25 of 2021

Indradeo Yadav @ Indradeo Prasad son of Late Mangal Yadav, resident of Village-Giriyak, Post Office and Police Station-Giriyak, District-Nalanda (Bihar).

Defendant/Petitioner/s

Versus

Md. Mansoor Alam son of Late Jahur Alam, resident of Village-Giriyak, Post Office and Police Station-Giriyak, District-Nalanda (Bihar).

... .. Opposite party

Appearance :

For the Petitioner/s : Mr. Aklavya Chandan Kumar
For the Opposite party : Mr. Rashid Rais

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

CAV ORDER

9 12-01-2024 I have already heard the learned counsel for the parties.

2. The present revision application has been preferred by the petitioner against the order dated 06.01.2021, passed by the learned Sub-Judge-I, Nalanda at Bihar Sharif in Misc. Case No. 06/2019, whereby the petition filed by the petitioner raising maintainability of the Misc. Case No.06/2019, was rejected.

3. The brief facts of the case is that the petitioner filed Title Suit No. 130/2015 against the opposite party which was decreed *ex parte* on 30.11.2017. The opposite party filed Misc. Case No. 6/2019 under Order IX, Rule 13 of the Code of Civil Procedure (hereinafter to be referred to as 'the Code'), to set aside the *ex parte* decree and order dated 30.11.2017. He



averred that the land in question, which is the subject-matter of the *ex parte* decree, was originally belonged to Kabiruddin, son of Ashraf Ali and he was recorded tenant of that land. After the death of Kabiruddin, his legal heirs came in possession of that property. Revenue receipts were issued in their favour and after *Jamindari* abolition, the receipts were granted in the name of Md. Jahur Alam, father of the opposite party. After the death of Jahur Alam, the land possession certificate was granted to this opposite party. Register-II was also prepared in his favour, but he was residing in Orissa to carry on his business to earn his livelihood. The petitioner, in conspiracy with Raza Karim, Md.Gulam Bari and Md. Shakil Raja, obtained the sale deed of that land in his favour with the help of *Halka Karamchari* and he also mutated his name in the revenue record. The petitioner obtained an *ex parte* decree behind the back of the opposite party. The opposite party never received any notice or summons and the entire proceeding of Title Suit No. 130/2015 were done stealthily and fraudulently. On the basis of *ex parte* decree, the petitioner wants to grab the compensation amount as the land has been acquired by the government.

4. The learned counsel for the petitioner has submitted that Misc.Case No. 06/2009 was not maintainable, as per the



provision of Section 63 of the Land Acquisition, Rehabilitation & Resettlement Act, 2013 (hereinafter to be referred to as ‘the Act’), which bars the jurisdiction of the civil court in respect of the land acquisition.

5. Section 63 of the Act reads as under:-

“63. Jurisdiction of Civil Courts barred.-- No civil court (other than High Court under Article 226 or Article 227 of the Constitution or the Supreme Court) shall have jurisdiction to entertain any dispute relating to land acquisition in respect of which the Collector or the Authority is empowered by or under this Act, and no injunction shall be granted by any court in respect of any such matter.”

6. From bare perusal of the said Section, it appears that the jurisdiction of the civil court is barred only for the dispute relating to the land acquisition. It means that if the factum of acquisition is a matter in issue, the civil court has no jurisdiction.

7. In the present case, the factum of acquisition is not an issue. The question in the present case is as to whether the petitioner obtained the *ex parte* decree by playing fraud or not ? Admittedly, the petitioner obtained an *ex parte* decree and a restoration petition under Order IX, Rule 13 of the Code is



pending in the court below. In my view, that case is not barred by Section 63 of the said Act.

8. Considering the above-mentioned facts and circumstances of the case, this revision application is dismissed.

(Nawneet Kumar Pandey, J)

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