

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8562 of 2023

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Md. Khurshid Son of Mohammad Saphik resident of village- Islampur
(Madanpur), P.S. Madanpur District - Aurangabad. At present resident at
Bolani, Balaguds Kendu Jha, Odisha.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Revenue and Land Reforms
Govt. of Bihar, Patna.
2. The District Magistrate, Aurangabad.
3. The Additional District Magistrate, Aurangabad.
4. The D.C.L.R., Aurangabad.
5. The S.D.O. Aurangabad.
6. The Circle Officer Madanpur, Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Bishwajeet Pandey, Advocate
For the State	:	Mr. Manoj Kr. Sinha, AC to SC-19

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 08-01-2024

1. Heard learned counsels for the parties.
2. This writ application has been filed for setting
aside the order dated 05.07.2022 passed by joint signature of
District Magistrate, Aurangabad (Respondent No. 2) and
Additional District Magistrate, Aurangabad (Respondent No. 3)
in Title Verification Case No.100 of 2015-16 whereby and
where under the raiyati rights of the petitioner in regard to the
disputed land pertaining to Mauza- Madanpur, Thana No. 785,



Khata No.176, Plot No.1103 and Area-0.0405 hectare, has been rejected.

3. Learned counsel for the petitioner submits the Circle Officer, Madanpur, Aurangabad (Respondent No. 6) upon consideration of the documents, had recommended the declaration of raiyati rights in favour of the petitioner. He also submits that the jamabandi was open in the name of father of the petitioner and continued in his name since 1989 and rent receipt was granted to him up till now i.e. for more than 30 years. Therefore, in this view of the matter, he has lawful right on the said land. It is further submitted that from the order impugned, it transpires that there is no reason assigned as to why the District Magistrate, Aurangabad (Respondent No. 2) and Additional District Magistrate, Aurangabad (Respondent No. 3) have not considered the case of the petitioner and only one line finding is against him that the competent evidence has not been filed by the petitioner but what are the competent evidence, which has not been produced, has not been mentioned.

4. On the other hand, learned counsel appearing on behalf of the State submits that the said order has been passed under the Bihar Land Reforms Act, 1950 (Bihar Act 30 of 1950). It is also submitted that there is a resolution issued by the



Government of Bihar vide Memo No.925 dated 11.11.2014, in which it has been decided that those lands, which were under the possession of the former landlord or their heirs and legal representatives in whose names rent receipts were granted, against them the action has to be taken under Sections 5, 6 and 7 of the Bihar Land Reforms Act, 1950 (Bihar Act 30 of 1950). It is further submitted that the said order dated 05.07.2022 has been passed completely applying the law laid down under Sections 5, 6 and 7 of the Bihar Land Reforms Act, 1950.

5. Having heard learned counsels for the parties and having gone through the documents available on record, this court is of the opinion that at the time of passing the order dated 05.07.2022, neither the District Magistrate, Aurangabad (Respondent No. 2) nor the Additional District Magistrate, Aurangabad (Respondent No. 3) has whispered about the applicability and consideration of the document on the basis of which the order was passed.

6. In the aforesaid facts and circumstances, in view of this Court, the order dated 05.07.2022 is absolutely perverse, non-speaking, and as such, the order dated 05.07.2022 passed in Swamitya Satyapan Case No.100 of 2015-16 is hereby set-aside.



7. In above view of the matter, the petitioner is directed to file a fresh representation before respondents within four weeks from today, along with a copy of this order. In the event the petitioner files his representation within the stipulated time, the respondents shall pass order afresh after providing opportunity of hearing to the petitioner and upon considering all the documents, as well as the provisions of law, within a period of 8 weeks thereafter.

8. With the aforesaid direction, the present writ petition is allowed.

(Prabhat Kumar Singh, J)

shashank/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.01.2024
Transmission Date	NA

