

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14336 of 2023

=====

Raushan Kumar son of Ram Vinay Kumar, Resident of Village and P.O. and P.S. Punaura, District-Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, Sitamarhi.
3. The Additional Collector, Sitamarhi.
4. The Deputy Collector Land Reforms (D.C.L.R.) Sitamarhi.
5. The Circle Officer, Dumra, District-Sitamarhi.
6. Kishori Mahto, son of Late Shiv Govind Mahto, resident of Village and P.O. and P.S.-Punaura, Ward No. 6, Sitamarhi Nagar Nigam, District-Sitamarhi.

... .. Respondent/s

=====

Appearance :

For the Petitioner	:	Mr. Pramod Mishra, Advocate Ms. Archana Kumari @ Archana Sinha, Advocate Mr. Shyama Kant Singh, Advocate
For the State	:	Mr. Rishi Raj Sinha, SC-19 Mr. Saurabh Kumar, AC to SC-19

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

- 2 06-02-2024 1. Heard learned counsels for the parties.
2. This writ application has been filed for the following reliefs:-

“i) For issuance of appropriate order/orders, direction/directions, writ/writs, preferably in the nature of mandamus, commanding and directing the Respondents to restore the boundary wall of rice mill of father of petitioner alongwith two godowns, machinery-shed, Puja room, office and wash-rooms with a iron main gate respectively standing upon Khata No. 641, Khesra (Plot) No.5936 measuring 15 decimals as well as Khata No.1651, Khesra No.5938 measuring 17 decimals in total 32 decimals under Mauza/village-Punaura, Thana No. 260, District-Sitamarhi and thereby



made the petitioner to suffer/loss a huge amount in lakhs, which has illegally and without initiating any proceeding and without issuing any show cause notice to the petitioner in this regard demolished, illegally in the garb of order dated 25.05.2023 passed by the Respondent Circle Officer, Dumra, Sitamarhi in Measurement Case No.57/2022-23 filed on behalf of the Private Respondent No.6 Kishori Mahto.

- ii) Commanding and directing the Respondent authority concerned in particularly the Respondent No.5 to pay a suitable compensation to the petitioner for the loss/damages meted to him due to arbitrary and dishonest act of the Respondent No.5. with a further prayer to take suitable legal action against the erring persons particularly the Respondent No.5 (the then Circle Officer, Dumara) namely Chandrajeet Prakash, Revenue Karamchari and Anchal Amin, who all despite objection filed by the family of the petitioner, has conducted very wrong, malafide and dishonest measurement process on the basis of Measurement Case No.57/2022-23 filed on behalf the Private Respondent No.6 giving a very illegal boundaries of the land in question and got the aforesaid structure of the Rice Mill demolished by way of passing the impugned order dated 25.05.2023.
- iii) And/or any other order(s), direction(s) for granting any other relief/reliefs which this Hon'ble Court may think fit and proper in the facts and circumstances of this case.”

3. At the outset, learned counsel for the State raises preliminary objection to the effect that an alternative remedy is available to the petitioner under Rule 23 (3) of the Tenancy Rules under the B.T. Act, which reads as:

*“(3) **Appeal.**—(1) Any person aggrieved by the measurement of land by the Amin as per order of the Anchal Adhikari, may file an appeal against the measurement of land by the Anchal Amin/measurement report of Anchal Amin in the court of Deputy Collector*



Land Reforms within 30 working days from the date of measurement of the land or submission of measurement report by the Anchal Amin which will be disposed of after hearing concerned parties within 30 working days by the Land Reforms, Deputy Collector. In cases, where appeal is not filed within 30 working day, the appellant will enclose delay condonation petition mentioning reasons of delay with the petition. If the Deputy Collector Land Reforms is satisfied that there are sufficient reasons for the delay, he may condone the delay in filing appeal. If Deputy Land Reforms is satisfied after hearing concerned parties that re-measurement is required, then he will declare Amin's report as null and void and order for re-measurement of land in such cases jointly by more than one Amin. If Deputy Collector, Land Reforms orders for re-measurement, then the appellant will have to deposit fixed Amin fee in the Nazarat of Deputy Collector, Land Reforms within 7 working days from the date of passing order by the Deputy Collector Land Reforms and in such cases land will be re-measured by joint team of Amins within 30 working days from the date of deposit of Amin fee. If Deputy Collector, Land Reforms is not satisfied with the measurement report submitted by the joint team of Amins, then he will order for re-measurement of such land by another joint team of Amins.

(ii) If an appeal against the Amin's measurement report is filed, the Land Reforms Deputy Collector shall call for the case record from the Circle Officer. After hearing concerned parties, the Land Reforms Deputy Collector will pass his order within 30 working

(iii) It will be mandatory to affix non-judicial stamp of Rs. 50 on every Memorandum of”

4. There is no justification coming forth as to why this writ application should be maintained despite having statutory alternative remedy under Rule 23 (3) of the Tenancy Rules under the B.T. Act.



5. In the above view of the matter, this court is not inclined to interfere in the matter in its extra ordinary writ jurisdiction.

6. In view of the aforesaid facts and circumstances, petitioner is directed to file fresh application before the competent authority in accordance with law within a period of six weeks from today.

7. In the event such application is filed by the petitioner within the stipulated time period, the authority concerned shall dispose of the same in accordance with law after hearing the parties, preferably within a period of six months from the date of filing of the application.

8. It goes without saying that if any question of limitation arises before the competent authority, the same shall be considered taking into consideration the fact that the petitioner was pursuing the issue before this Court under Article 226 of the Constitution of India.

9. Writ petition stands disposed of with the aforesaid observations.

(Prabhat Kumar Singh, J)

shashank/-

U			
---	--	--	--

