

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15770 of 2024

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Sudeep Paroi @ Sudeep Kumar Paroi Son of Timir Paroi @ Tinir Kant Paroi
Resident of village- Sultanpur, Near High School, Police Station- Barsoi,
District- Katihar

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Land and Revenue, Government of Bihar, Patna.
2. The District Magistrate, Katihar
3. The DCLR, Barsoi, Katihar
4. The Circle Officer, Barsoi, Katihar
5. Shankar Paroi Son of Abhay Paroi @ Late Abhay Chand Paroi, Resident of Village- Sultanpur, Near High School, Police Station- Barsoi, District- Katihar
6. Imulua Paroi Son of Abhay Paroi @ Late Abhay Chand Paroi Resident of Village- Sultanpur, Near High School, Police Station- Barsoi, District- Katihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rajendra Prasad Sah, Adv.
For the State	:	Mr.Government Pleader (3)

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 17-10-2024

In the instant petition, petitioner has prayed for
the following relief(s):-

i. For issuance of writ in the nature of mandamus directing the official respondents to comply the order of the learned DCLR, Barsoi and forthwith vacate the land in favour of the petitioner.

ii. For issuance of any other appropriate writ(s) or order(s) or direction(s) which may be deemed fit and proper in the facts and circumstances of the case.

2. Briefly stated facts of the present case is that



land in question was settled in favour of Timir Kant Paroi, father of the petitioner in the year 1976. Out of 26 decimal land, 4 decimal of land of petitioner have been encroached by the private respondents no. 5 and 6 in the year 2018-19. The petitioner and other filed BLDR Case No. 103/ 2018-19 before the DCLR, Barsoi to remove encroachment from the land of the petitioner. The DCLR after hearing both the parties ordered to get the land measured and to demarcate the same between the parties and put the petitioner and other in possession thereof. In pursuance of order dated 12.07.2019 passed by the DCLR, Barsoi notice was issued to the petitioner and private respondents.

3. Learned counsel for the petitioner submitted that despite being the order passed by the DCLR, Barsoi in favour of the petitioner, private respondents have not vacated the encroached part of the petitioner's land. He has further submitted that copy of order of DCLR has already been given to the concerned Circle Officer for compliance of the order but up till now no order has been passed.

4. Learned GP-3 has submitted that land in question has been measured and notice has been issued to private respondents no. 5 and 6.



5. From bare perusal of the record, it transpired that petitioner has not filed any petition for execution of the order of the competent authority or it has not been stated in the present writ petition that the order passed by the concerned authority is final and no appeal has been filed against the order of the competent authority.

6. The very purpose of Bihar Land Disputes Resolution Act, 2009 (hereinafter referred to as "Act, 2009") is to decide the nature of disputes connected with the Record of Rights, partition of jamabandi, forcible dispossession of allottees/ raiyats, boundary disputes etc. In Section 2(a) of Act, 2009 it has been defined that competent authority shall be Deputy Collector Land Reforms or any officer assigned to discharge the functions and duties of Deputy Collector Land Reforms in the Sub-division. Section 5 of Act, 2009 describes Competent Authority to have powers of Civil Court. Section 9 of Act, 2009 gives focus as to how expeditious resolution of disputes can be made by the competent authority. Section 12 of Act, 2009 describes the power of Collector to exercise superintendence, supervision and control over the Competent Authority.

7. Section 15 of Act, 2009 reads as under:-



"15. Execution of the order passed by the Competent Authority- The Competent Authority shall execute the order passed by him subject to order, if any, passed in appeal:

Provided that if no appeal is filed within the prescribed period he shall proceed to execute the said order either himself or authorize any other officer or employee to execute the same.

8. In the present case, the counsel of the petitioner has given sole thrust of his argument for non-compliance of order passed by competent authority. Only it has been shown through Annexure-P/4 that notice has been sent to the concerned parties. In this way, Section 15 of Act, 2009 has not been complied.

9. On the point of non compliance of order passed by the DCLR, co-ordinate Bench of this court vide judgment dated 02.02.2015 passed in CWJC No. 1288 of 2015 held that order passed by the DCLR has not been appealed against and as such, order has become final and directed the petitioner to file an appropriate application before the Competent Authority i.e. Deputy Collector, Land Reforms invoking jurisdiction under Section 15 of the Act.

10. The petitioner has moved this court without availing the remedy before the appropriate forum. Accordingly,



the present writ petition is premature and same stands disposed of as not maintainable.

11. Disposal of the present writ petition would not be hurdle for the petitioner to approach the appropriate forum for execution of the order passed by the competent authority, if order of the competent authority has attained finality. If petitioner approaches the concerned authority, the concerned authority is directed to hear the grievances of the petitioner and pass appropriate order as per statutory provision for which the Act, 2009 has been made.

(Alok Kumar Pandey, J)

shahzad/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	22.10.2024
Transmission Date	N.A.

