

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6580 of 2016

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Sarfuddin Pehalwan Son of Late Ali Akbar resident of village- Tadwa, P.O.-
Siwan, P.s.- Muffassil, District- Siwan

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner, Saran Division, Saran at Chapra
3. The District Magistrate, Siwan
4. The Deputy Collector Land Reforms, Siwan Sadar, Siwan
5. The Circle Officer, Siwan Sadar, Siwan
6. Sri Vijay Kumar Jaiswal, Son of Late Kanhaiya Prasad Jaiswal, Resident of
Mohalla- Naibasti Malviya Nagar, P.S.- Mahadeva O.P. Siwan Muffasil,
District- Siwan

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Krishna Kant Singh, Advocate
For the State	:	Mr. Sita Ram Yadav, GP-16
	:	Mr. Rakesh Kumar Shrivastav, AC to GP-16

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 30-08-2025 Heard Mr. Krishna Kant Singh, learned counsel for
the petitioner and learned counsel representing the State.

2. The present petition has been preferred for the
grant of following relief(s):

*“(i) for issuance of a writ in the nature
of 'Certiorari' for setting aside the order dated
10.11.2015 passed in B.L.T. Case No. 165/2015
by the learned Member Administrative, Bihar
Land Tribunal, Patna (henceforth referred as
Tribunal) whereby and whereunder the B.L.T.*



Case No. 165/2015 filed by the private respondent no.6 has been allowed by setting-aside the order dated 08.12.2014 passed by the Divisional Commissioner in B.L.D.R. Appeal No. 299/14.

(ii) for holding that the order dated 08.12.2014 Commissioner of the Divisional in B.L.D.R. Appeal No.299/14 is perfectly legal.

(iii) for further holding that the order dated 29.08.2014 passed by the D.C.L.R., Siwan Sadar in B.L.D.R. Case No. 157/333/2013-14 is illegal and the D.C.L.R. had no jurisdiction to entertain the said case and direct for dispossession of the petitioner.

(iv) to further hold that the proceeding initiated at the instance of the private respondent under the Bihar Land Dispute Resolution Act is without jurisdiction.

(v) for other necessary relief/reliefs which the petitioner is entitled in the fact of the case.”

3. The matter relates to the land, details of which



is/are follows:

(i) Khata No. 221, Survey No. 1875 (Area 1 Kattha 12 Dhur) and;

(ii) Survey No. 1876 (Area 8 Dhur) (Totaling 2 Kattha), situated at Mauza- Tadwa, under P.S. Siwan Muffasil in the district of Siwan.

4. The respondent no.6 Vijay Kumar Jaiswal, moved before the Deputy Collector Land Reforms, Siwan in BLDR Case No. 157/333 of 2013-14 (Vijay Kumar Jaiswal vs. Sarfuddin Pehalwan) claiming that the land which has been purchased by him, it is being disturbed by the petitioner herein.

5. It came to be disposed of on 29.08.2014 by the concerned authority and the D.C.L.R., Siwan actually entered into the title of the respondent no.6 vis-a-vis the petitioner and accordingly directed the Circle Officer, Sadar, Siwan to get the land measured and remove the encroachment (Annexure-3 to the petition).

6. Aggrieved, the petitioner moved before the Divisional Commissioner, Saran at Chapra in BLDR Appeal No. 299 of 2014 which was disposed of on 08.12.2014 and in a short order, it recorded that the decision taken by the Deputy Collector Land Reforms, Siwan is beyond his jurisdiction and as



such, the same was set aside allowing the parties to approach the civil court for declaration of title (Annexure-4 to the petition). The respondent no.6 preferred review petition which came to be rejected on 17.04.2015 (Annexure-5 to the petition).

7. Respondent no.6 thereafter moved before the Bihar Land Tribunal, Patna (henceforth for short 'the BLT') in BLT Case No. 165 of 2015 and the Member, Administrative taking note of the facts that the case which actually should have traveled to civil court for declaration of title is being litigated before the Revenue Authorities. The Member, Administrative came to the conclusion that it is a pure Title matter to be decided by the competent civil court set aside the order of the Divisional Commissioner, Saran at Chapra allowing the party to approach the competent civil court (Annexure-6 to the petition).

8. Aggrieved the present writ petition.

9. Learned counsel for the petitioner submits that he is not aggrieved by the setting aside of the order of the Divisional Commissioner, Saran at Chapra rather the comment made by 'the BLT' specifically asking this petitioner to go before the competent civil court. The submission is that anyone aggrieved can approach the competent civil court and the same should have been left open to both the parties.



10. The coordinate Bench had taken up the matter on 28.06.2018 issued notice upon the respondent no.6. The office notes records that it has been validly served upon him but there is no appearance.

11. The State has also preferred an affidavit and a bare perusal of it would show that it has only been filed for academic interest as nothing can be deciphered from it.

12. As recorded above, the respondent no.6 despite valid service of notice chose not to appear in this case.

13. Having heard the parties and perusing the record, this Court is of the opinion that the dispute between this petitioner and respondent no.6 is purely civil in nature which can be adjudicated only by a competent civil court and not before the Revenue Authorities.

14. In that background, none of the orders that has come during the litigating journey of the petitioner vis-a-vis respondent no.6 has to be considered if any of the party decides to approach the civil court for declaration of Title.

15. Thus, all the orders dated 10.11.2015 passed by 'the BLT', the order dated 08.12.2014 passed by the Divisional Commissioner, Saran at Chapra in BLDR Appeal No.299 of 2014 as also the order of the Deputy Collector Land Reforms,



Siwan Sadar dated 29.08.2014 in BLDR Case No. 157/333/2013-14 stand set aside. Any comment made by any of the Revenue Authority/B.L.T. in course of the legal journey between the parties shall be taken into account if one of them chooses to approach the competent civil court.

16. The writ petition stands disposed of with the aforesaid observation.

(Rajiv Roy, J)

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