

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13644 of 2024

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Raj Kumar Paswan Son of Late Yadu Paswan Resident of Doctor Toli, Police Station - Mokama, District - Patna, presently residing at Thana Road, Ondal, Bardhaman, West Bengal- 713321.

... .. Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Patna.
2. The Deputy Collector Land Reform, Barh, Patna.
3. The Circle Officer, Ghoswari, Patna.
4. Om Prakash Paswan, Son of Late Dharmpal Paswan Resident of Doctor Toli, Ward No. - 6, Post and Police Station - Mokama, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Lal Babu Singh, Advocate
For the Respondent/s : Mr. AC to GP-16

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 28-01-2025 Heard learned counsel for the petitioner, learned AC to GP-16 for the State and Mr. Hans Raj, learned counsel appearing on behalf of private respondent.

2. Learned counsel appearing on behalf of the petitioner submits that the instant writ application has been filed for setting aside the order dated 19.07.2024 passed by the Deputy Collector, Land Reforms, Barh in Measurement Appeal Case No. 22 of 2023-24 whereby the order dated 02.01.2024 passed in Measurement Case No. 04 of 2023-24 by the Circle Officer, Ghoswari, Patna has been set aside and fresh order for measurement of petitioner's private land has been directed and further to quash the notice dated 01.08.2024 issued by the



Deputy Collector, Land Reforms, Barh, Patna whereby petitioner has been directed to remain present on 21.08.2024 when measurement of the petitioner's land shall be taken up by the appointed Amin.

3. Leaned counsel appearing on behalf of the petitioner submits that land in dispute in the instant writ application pertains to Thana No. 40, Khata No. 525 and 559, Khesra No. 547 and 548 measuring 1.58 acres at Mauza Ghoswari, district Patna. It is further submitted that the land in dispute belongs to the petitioner and the petitioner resides at West Bengal for his livelihood. It is next submitted that taking advantage of the absence of the petitioner, respondent no. 4 herein filed an application for measurement of the land in question before the Circle Officer, Ghoswari, Patna vide Measurement Case No. 04 of 2023-24. The Circle Officer, Ghoswari, Patna proceeded with the process of measurement but the petitioner came to know that respondent no. 4 behind his back has filed a case seeking measurement of the land in dispute, as such, he appeared and filed his objection on which the Circle Officer, Ghoswari, Patna rejected the application for measurement by order dated 02.01.2024 filed by respondent no.4.



4. Learned counsel for the petitioner submits that respondent no. 4, accordingly, filed an appeal before the Deputy Collector, Land Reforms, Barh, Patna being Measurement Appeal Case No. 22 of 2023-24 against the order dated 02.01.2024 passed by the Circle Officer, Ghoswari, Patna in Measurement Case No. 04 of 2023-24.

5. Learned counsel for the petitioner submits that the Deputy Collector, Land Reforms, Barh, Patna without hearing the petitioner allowed the Measurement Appeal Case No. 22 of 2023-24 after setting aside the order passed by the Circle Officer, Ghoswari, Patna in Measurement Case No. 04 of 2023-24 and remanded the matter back for fresh measurement of the land in dispute and also issued the impugned notice asking the petitioner to be present when the measurement of the land takes place.

6. Learned counsel for the petitioner submits that the Deputy Collector, Land Reforms, Barh, Patna allowed the Measurement Appeal Case No. 22 of 2023-24 without hearing the petitioner. It is further submitted that from the order impugned, it would manifest that the same records that notices were received by the petitioner but then the petitioner did not appear, as such, the measurement appeal proceeded ex parte. It



is next submitted that a specific statement has been made at para 11 of the writ application that petitioner was never served with the notice in appeal.

7. Learned counsel for the petitioner further submits that order in Measurement Case No. 04 of 2023-24 passed by the Circle Officer, Ghoswari, Patna was in favour of the petitioner and the appellate order setting aside the order of the Circle Officer, Ghoswari, Patna came to be passed by the Deputy Collector, Land Reforms, Barh, Patna behind the back of the petitioner without giving him any opportunity of hearing.

8. Learned counsel appearing on behalf of the State is not in a position to countenance the said submission of the learned counsel appearing on behalf of the petitioner.

9. Learned counsel appearing on behalf of private respondent submits that from perusal of the order impugned, it would manifest that the notices were issued on the petitioner and the petitioner after receiving the notice chose not to appear, as such, Measurement Appeal Case No. 22 of 2023-24 proceeded ex parte.

10. After hearing the learned counsel for the parties and after perusing the order impugned, the Court comes to a considered conclusion that the order in Measurement Appeal



Case No. 22 of 2023-24 was passed by the Deputy Collector, Land Reforms, Barh, Patna without hearing the petitioner and behind his back when the order in Measurement Case No. 04 of 2023-24 passed by the Circle Officer, Ghoswari, Patna was in favour of the petitioner, as such, the order impugned is fit to be set aside and, accordingly, the order dated 19.07.2024 passed by the Deputy Collector, Land Reforms, Barh, Patna in Measurement Appeal Case No. 22 of 2023-24 is set aside and the matter is remanded back to the Deputy Collector, Land Reforms, Barh, Patna to hear Measurement Appeal Case No. 22 of 2023-24 afresh after giving opportunity of hearing to all concern.

11. Accordingly, the writ application is disposed of.

12. It is made clear that unnecessary adjournment would not be given and Measurement Appeal Case No. 22 of 2023-24 shall be decided and disposed of in accordance with law within a period of four weeks from the date of receipt/production of a copy of this order.

(Satyavrat Verma, J)

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