

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No. 5740 of 2013

In

Civil Writ Jurisdiction Case No.18339 of 2012

Surendra Prasad Sinha S/O Late Shiv Nandan Singh Resident Of Village Baruntar, P.S. Harnaut, District Nalanda Bihar Sheriff At Present Residing At A/218, P.C. Colony Kankarbag, P.S. Kankarbagh, District Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar S/O Not Known The Principal Secretary, Department Of Land Reforms And Revenue, Government Of Bihar, Old Secretariat, Patna.
2. Mr. Hukum Singh Meena S/O Not Known The Principal Secretary, Department Of Land Reforms And Revenue, Government Of Bihar, Old Secretariat, Patna.
3. Dr. N. Sarwan Kumar S/O Not Known The District Magistrate, Patna.
4. Dr. Nilesh Chandra Dewre S/O Not Known The Sub Divisional Officer Barh, Patna.
5. Mr. Raj Bardhan S/O Not Known The Deputy Collector Land Reforms Barh, Patna.
6. Mr. Anil Kumar Chaube S/O Not Known The Circle Officer Bakhtiyarpur, Patna.
7. Mr. Mritunjay Kumar S/O Not Known The Officer Incharge Bakhtiyarpur, Patna.
8. Dr. Kumar Indradeo S/O Late Ram Prit Singh Resident Of Rajendra Nagar, Road No. 12, House No. 17, P.O. Rajendra Nagar, P.S. Kadamkuan, District Patna.
9. Kumar Nagendra S/O Dr. Kumar Indradeo Resident Of Rajendra Nagar, Road No. 12, House No. 17, P.O. Rajendra Nagar, P.S. Kadamkuan, District Patna.
10. Kumar Gyanendra S/O Dr. Kumar Indradeo Resident Of Rajendra Nagar, Road No. 12, House No. 17, P.O. Rajendra Nagar, P.S. Kadamkuan, District Patna.

... .. Opposite Party/s

with

Civil Writ Jurisdiction Case No. 18339 of 2012

1. Dr. Kumar Indradeo Son Of Late Ram Prit Singh Resident Of Rajendra Nagar, Road No. 12, House No. 17, P.O.- Rajendra Nagar, P.S.- Kadamkuan, Dist.- Patna
2. Kumar Nagendra Son Of Dr. Kumar Indradeo Resident Of Rajendra Nagar, Road No. 12, House No. 17, P.O.- Rajendra Nagar, P.S.- Kadamkuan, Dist.- Patna
3. Kumar Gyanendra Son Of Dr. Kumar Indradeo Resident Of Rajendra Nagar, Road No. 12, House No. 17, P.O.- Rajendra Nagar, P.S.- Kadamkuan, Dist.- Patna



4. Kumar Gajendra Son Of Dr. Kumar Indradeo Resident Of Rajendra Nagar,
Road No. 12, House No. 17, P.O.- Rajendra Nagar, P.S.- Kadamkuan, Dist.-
Patna

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors Government Of Bihar, Old Secretariat, Patna
2. Principal Secretary, Department Of Land Reforms And Revenue,
Government Of Bihar, Old Secretariat, Patna
3. District Magistrate, Patna
4. Sub Divisional Officer, Barh, Patna
5. Deputy Collector Land Reforms, Barh, Patna
6. Circle Officer, Bakhtiarpur, Patna
7. Officer In-Charge, Bakhtiarpur, Patna
8. Surendra Prasad Sinha Son Of Late Shiv Nandan Singh Resident Of Village
Baruntar, P.S. Harnaut, District Nalanda, At Present Residing At A/ 218, P.C.
Colony Kankerbagh, P.S. Kankerbagh, District Patna

... .. Respondent/s

Appearance :

(In Miscellaneous Jurisdiction Case No. 5740 of 2013)

For the Petitioner/s : Mr. Dharendra Kumar, Advocate

For the O.P. 8&9 : Mr. Sanjeet Kumar, Advocate

(In Civil Writ Jurisdiction Case No. 18339 of 2012)

For the Petitioner/s : Mr. Sanjeet Kumar, Advocate

For the Respondent/s : Mr. Dharendra Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

10 29-08-2025 Learned counsel for the opposite party no. 8 has filed
reply to the show cause filed on behalf of opposite party nos. 3
& 6 in court, which is accepted.

2. Both the matters are being heard together as the
Miscellaneous Jurisdiction Case (M.J.C) is offshoot of order
dated 05.10.2012 passed in C.W.J.C. No. 18339 of 2012.

3. The Miscellaneous Jurisdiction Case has been filed
by the petitioner (respondent no. 8 in C.W.J.C. No. 18339 of
2012) for initiation of contempt proceeding against the opposite



party nos. 8, 9 and 10 for their willful violation of the order dated 05.10.2012 passed in C.W.J.C. No. 18339 of 2012.

4. C.W.J.C. No. 18339 of 2012 was filed for quashing the ex-parte order dated 07.02.2011 passed by the learned D.C.L.R., Barh, Patna in Land Dispute Case No. 36 of 2011-12 (Annexure-1).

5. Learned counsel for the petitioners submitted that the aforesaid Land Dispute Case was registered on 04.08.2011 for removal of encroachment, wherein, notice was directed to be issued upon opposite party including the petitioners.

6. It appears from the order dated 04.08.2011 passed in the aforesaid case that the notice remained unserved. Again, on 23.09.2011 service of notice was not received. Thereafter, on 23.09.2011, the learned D.C.L.R. further directed to issue notice by registered post upon the opposite party including the petitioner. From the order dated 27.10.2011, it appears that 15 notices issued through registered post were returned unserved. On 21.11.2011, the learned D.C.L.R. heard the applicant i.e. respondent no. 8 and directed for spot inspection/enquiry and fixed the date on 30.11.2011. The case was heard ex-parte on 30.11.2011 and the date was fixed for orders on 07.12.2011. On 07.12.2011, the impugned order (Annexure-1) was passed. It is



apparent from the record that the entire proceeding started and ended without appearance of petitioner.

7. It is also apparent from the record that no steps were taken for substituted service of notice i.e. publication of notice in the newspaper upon the petitioner. The entire proceeding of Land Dispute Case No. 36 of 2011-12 proceeded ex-parte, even without service of notice to the petitioner.

8. On the other hand, learned counsel for the respondent no. 8 vehemently submitted that before starting the present proceeding, land measurement case was initiated against all the boundary raiyat of the respondent no. 8 vide Demarcation Case No. 17 of 2010-11. After service of notice in the said Demarcation case, petitioner no. 4 (in C.W.J.C. No. 18339 of 2012) and petitioner no. 1 (in C.W.J.C. No. 18339 of 2012) appeared. It is submitted that writ petitioners are the main persons who were affected with the proceeding started against them and purposely service of notice upon them was evaded and in their absence, the impugned order under challenge in writ case has been passed.

9. It is apparent from the record that the proceeding under Section 4 (d) of the Bihar Land Dispute Resolution Act, 2009 has been initiated against the petitioners and others. There



is no material to show that the notices were served upon them. It is apparent from the order sheet of Land Dispute Case No. 36 of 2011-12 that the notices issued under registered cover to 15 named parties were returned unserved. Despite that the case was heard ex-parte i.e., without service of notice to the other side.

10. It is also apparent from the record that without service of notice, the ex-parte proceeding has been initiated and on the same day, the case was fixed for Orders on 07.12.2011, which is against the settled principle of law that unless the notices upon concerned parties are served, the ex-parte proceeding could not be initiated.

11. In the contempt application, the petitioner no. 2 of the writ case has filed his reply to show cause contending that they have not violated the order dated 05.10.2012 passed in the said writ case nor made any construction over the land in question. The petitioner (in MJC) did not file any cogent materials to prove the said allegation.

12. Having regard to the facts and circumstances of the case and the irregularities committed in the case, the impugned order is set aside and the BLD Case No. 36 of 2011-12 is remanded to the D.C.L.R., Barh, Patna to pass a fresh order after hearing both the parties. With consent of both the



sides, the date of hearing of the said BLD Case No. 36 of 2011-12 is fixed on 15.09.2025, which was filed before the D.C.L.R., Barh, Patna.

13. It is made clear that if any party does not appear on that day, the learned D.L.C.R., Barh, Patna shall pass appropriate order in accordance with law. If both the parties appear and contest the aforesaid case, the same shall be disposed of within two months.

14. In view of the aforesaid, C.W.J.C. No. 18339 of 2012 and M.J.C. No. 5740 of 2013 stand disposed of.

15. If any portion is encroached by the petitioner, the authority is at liberty to proceed according to law.

16. Accordingly, both the applications are disposed of.

(Khatim Reza, J)

sankalp/-

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