

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17154 of 2022

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Akhilesh Singh s/o Dharichhan Singh Resident of Village and Post- Dinara, District- Rohtas, Pin Code- 802213.

... .. Petitioner/s

Versus

1. The State of Bihar through Principle Secretary, Revenue and Land Reforms, Patna Bihar.
2. The Collector, Rohtas.
3. The Additional Collector, Sasaram, Rohtas.
4. The Deputy Collector, Land Reforms, Bikramganj, Rohtas.
5. The Circle Officer, Dinara, District- Rohtas.
6. Dhanpato Devi w/o Sri Singh Resident of Village- Girdhariya, P.O. and P.S.- Dinara, District- Rohtas, Pin Code- 802213.
7. Dharichan Singh s/o Late Kedar Singh resident of Village and Post- Dinara, District- Rohtas.

... .. Respondent/s

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Bihar Land Resolution Act, 2009

Writ petition –question arisen –whether the Deputy Collector Land Reforms, Bikramganj, Rohtas can travel beyond S.4 of Bihar Land Dispute Resolution Act,2009 - petition preferred for following reliefs i.e., for issuance of writ in the nature of certiorari for quashing the order dated 4/11/2022 passed by DCLR, Bikramganj, Rohtas in Land Dispute Case, for directing the official respondents to not take any coercive steps in the light of order till the final disposal of the writ petition – for commanding the respondents to maintain status quo till the disposition of writ petition – facts are the grandfather of the petitioner late Kedar Nath Singh purchased a piece of land on 4/6/1942 and in the R.S.Khaitan prepared during the period 1970-72, the name of the grandfather of the petitioner was incorporated – the land came in possession of his son and subsequently his grandson who is the petitioner – the rent receipts are on record – the agnate of the petitioner gifted some land to his daughter Dhanpato Devi on 30/8/1982, however in the said gift the land if the land of the grandfather of the petitioner also got included – this followed a Mutation Case No.161/83 by the Circle Officer, Dinara in favor of Dhanpato Devi which was

done ex-parte behind the back of the petitioner – vide mutation Appeal no. 870/1984-85, the father of the petitioner preferred appeal before DCLR, Bikramganj who called for report and on the basis of report submitted by Circle Officer, being satisfied allowed the mutation appeal in favor of the petitioners family on 26/3/1985 – Mutation Revision was therefore preferred by Dhanpato Devi which came to be dismissed for non prosecution on 6/12/1989 – this was followed by filing of title suit no.42/2003 before the competent Civil Court by Dhanpato Devi which too got dismissed for non prosecution – a decade later under ‘2009 Act’, B.L.D.R Case No. 30/22 was preferred and the Deputy Collector Land Reforms, Bikramganj, Rohtas vide an order dated 4/11.2022 allowed the petition directing the Circle Office to do the needful – in his contention while doing so the Deputy Collector Land Reforms, Bikramganj, Rohtas vide order dated 4/11/2022 allowed the said petition directing the Circle Officer, Dinara to do the needful – it is his contention that while doing so the Deputy Collector Land Reforms moved beyond its jurisdiction inasmuch as the order under S.4 of the 2009 Act can only be passed in case of settlee/allotee and not when there is a dispute between the two private individual/parties –an order passed in Title Suit No.147/1998 that was fought between the lady, Dhanpato Devi as also the son of her sister, Asharfi Devi in which challenge to the gift in favor of Dhanpato Devi was rejected by the learned Sub-Judge – IV, Rohtas at Sasaram vide order dated 15/11/2006 – This order was challenged in Title Appeal No.116 of 2006 by the son of her sister which again came to be dismissed by the Learned Additional District Judge-IV, Rohtas, Sasaram on 19/8/2015- this Court would like to incorporate S.4 of the ‘2000 Act’ – perusal of the section would clearly show that it is restricted to the settlee or the allottee of the land where there is unauthorized unlawful dispossession as also relating to restoration of possession of settled / allotted land – the aforesaid facts/details as also a perusal of the of ‘ 2009 Act’ would clearly answer the original question – that the Deputy Collector travelled beyond the scope of S.4 of the 2009 Act in passing the order in question, and in that circumstances the same needs interference – respondent no.6 has liberty to redress his grievance before competent authority –the order dated 4/11/2022 passed in Land Dispute Case No.30/2022-23 by Deputy Collector Land Reforms, Bikramganj, Rohtas stands quashed – writ petition allowed – no costs.

Referred:

Basudev Saw & others v State of Bihar & Ors

Ram Bachan Singh v State of Bihar 2023 (2) PLJR 554

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7. Dharichan Singh s/o Late Kedar Singh resident of Village and Post- Dinara, District- Rohtas.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ranjan Kumar Dubey, Advocate Mr. Shailendra Kumar Dwivedi, Advocate Mr. Shashank Kashyap, Advocate Mr. Bambam Kumar, Advocate
For the Respondent/s	:	AC to AAG-12
For the Respondent no. 6:	:	Mr. Uday Prakash Sharma, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

Date : 01-04-2024

The question that has arisen in the writ petition is whether the Deputy Collector Land Reforms, Bikramganj, Rohtas can travel beyond section 4 of the Bihar Land Dispute Resolution Act, 2009 (henceforth for short ‘the 2009 Act’) or not.

2. The present writ petition has been preferred for the following reliefs:



*(i) for issuance of writ in the nature of certiorari for quashing the order dated 04.11.2022 passed by DCLR, Bikramganj, Rohtas in Land Dispute Case No. 30/2022-23 by which he has directed the Circle Office, Dinara to measured the land of respondent 2nd set and if found opposite party in illegal possession then same may be vacated;*

*(ii) for directing the official respondents to not take any co-ercive step in the light of order as contained in annexure-1 till final disposal of the writ petition;*

*(iii) for commanding the respondents to maintain status quo over the land in question till final disposal of the writ petition.*

3. Heard Mr. Ranjan Kumar Dubey, learned counsel for the petitioner, learned AC to AAG-12 as also Mr. Uday Prakash Sharma, learned counsel appearing on behalf of the respondent no. 6.

4. The facts of the case is/are as follows:

5. The grandfather of the petitioner, namely, late Kedar Singh purchased a piece of land on 04.06.1942 (Annexure-2). In the R.S. *khatian* prepared during the period 1970-72, the name of the grandfather of the petitioner, Late Kedar Singh was incorporated. The land later came in



possession of his son, Harichand Singh and then to the grandson, Akhilesh Singh (the petitioner herein). The rent receipts are also on record (Annexure-4 series).

6. The case of the petitioner is that his agnate, namely, Umda Kuwar gifted some land to his daughter, Dhanpato Devi on 31.08.1982. However, in the said gift, the land of the petitioner/grandfather (late Kedar Singh ) was also included. This followed a Mutation Case no. 161/83 by the Circle Officer, Dinara in favour of Dhanpato Devi which was done *ex-parte* behind the back of the petitioner.

7. Vide Mutation Appeal no. 870/1984-85, the father of the petitioner, Dharikchan Singh preferred aforesaid appeal before the DCLR, Bikramganj who called for a report and on the basis of the report submitted by the Circle Officer, having been satisfied, the mutation appeal was allowed in favour of the petitioner's family on 26.03.1985.

8. Mutation Revision thereafter preferred by the respondent no. 6, Dhanpato Devi came to be dismissed for non-prosecution on 06.12.1989. This followed filing of the Title Suit No. 42 of 2003 before the competent Civil Court by Dhanpato Devi which too got dismissed on 09.08.2012 for non-prosecution.



**9.** The case of the petitioner is that a decade later under 'the 2009 Act', B.L.D.R Case No. 30/22 was preferred and the Deputy Collector Land Reforms, Bikramganj, Rohtas vide an order dated 04.11.2022 allowed the said petition directing the Circle Officer, Dinara to do the needful (Annexure-1 to the writ petition).

**10.** It is his contention that while doing so, the respondent no. 6, the Deputy Collector Land Reforms moved beyond its jurisdiction *inasmuch* as the order under Section 4 of 'the 2009 Act' can be passed only in case of settlee/allottee and not when there is a dispute between the two private individuals/parties.

**11.** Learned counsel appearing on behalf of the respondent no. 6, on the other hand submits that by way of valid piece of gift of deed the land in question was/were transferred to Dhanpato Devi by her mother, Kumda Kuer.

**12.** He further took this Court an order passed in Title Suit No. 147/1998 that was fought between the lady, Dhanpato Devi as also the son of her sister, Asharfi Devi in which the challenge to the gift in favour of Dhanpato Devi was rejected by the learned Sub Judge-IV, Rohtas at Sasaram vide an order dated 15.11.2006. This was challenged in Title Appeal



No. 116 of 2006 by Dindayal Singh (son of sister of Dhanpato Devi) which again came to be dismissed by the learned Additional District Judge-IV, Rohtas, Sasaram on 19.08.2015.

**13.** Learned Counsel as such submits that when the gift deed got validly stamped both in the Title suit as well as the Title Appeal, the Deputy Collector Land Reforms was well within its right in passing the order in question.

**14.** Learned counsel for the petitioner, on the other hand, submits that a bare perusal of the order would show that it was friendly fight between the two sisters in which the petitioner/his family members were never made party and as such, the same is not applicable on them.

**15.** Learned counsel for the State, on the other hand, though tried to justify the order passed by the Deputy Collector Land Reforms on specific question whether the Officer concerned can move beyond Section 4 of 'the 2009 Act', the answer was evasive.

**16.** This Court will like to incorporate Section 4 of 'the 2000 Act' which read as follows:-

**4. Jurisdiction and authority to resolve disputes-** (1) *The Competent Authority shall have jurisdiction and authority to hear and adjudicate, on an application or complaint or on*



*any application referred to by a Prescribed Authority or Officer, any issue arising out of following types of disputes:-*

*Unauthorised and unlawful dispossession of any settlee or allottee from any land or part thereof, settled with or allotted to him for under any Ad or Policy of the State or Central Government providing for settlement of government land to the persons of any specified category under any Act contained in Schedule-1 to this Act by issuance of any settlement document/parcha by a Competent Authority;*

*(b) Restoration of possession of settled/allotted land in favour of legally entitled settlee/ allottee or his successors/heirs, upon adjudication of unauthorized and unlawful dispossession;*

*(c) Threatened dispossession of a legally entitled settlee/allottee:*

*(d) Any of the matters enumerated in (a), (b) and (c) above appertainings raiyati land;*

*(e) Partition of land holding;*

*(f) Correction of entry made in the Record of Rights including map/survey map*

*(g) Declaration of the right of a person;*

*(h) Boundary disputes;*

*(i) Construction of unauthorized structure; and*

*(j) Lis pendens transfer.*





*(2) The Competent Authority shall not have jurisdiction to review or reopen any finally concluded and adjudicated proceeding under any of the Acts contained in Schedule-1. The Competent Authority shall exercise his authority for resolving the dispute brought before him on the basis of any final order passed by any of the authorities empowered to do so in the Acts contained in Schedule-1 of this Act.*

*(3) The Competent Authority shall not have jurisdiction to adjudicate any fresh rights of allottee/settlee or a raiyat which is not yet determined and is required to be determined in accordance with provisions contained in any of the Acts contained in Schedule-1:*

*Provided that where rights of allottee / settlee or raiyat are already determined under any of the Acts contained in Schedule-1, the Competent Authority shall have jurisdiction to entertain cases appertaining to matters enumerated in sub-section (1).*

*(4) Notwithstanding anything contained in sub-section (2) and (3) hereinabove, no provision is made in any of the Acts contained in Schedule-1 for determination of rights of allottee/settlee or raiyat and claimed right is yet to be determined, it shall be open to the Competent Authority to finally determine such right.*

*(5) The Competent Authority, wherever it appears to him that the case instituted*



*before him involves complex question of adjudication of title, he shall close the proceeding and leave it open to parties to seek remedies before the competent civil Court.”*

17. A perusal of the said section would clearly show that it is restricted to the settlee or the allottee of a land where there is unauthorized unlawful dispossession as also relating to restoration of possession of settled/allotted land.

18. Admittedly, the petitioner as also the respondent no. 6 are neither the settlee nor the allottee. It is a specific case of the petitioner that in the year, 1942, the land was purchased by the grandfather namely, Late Kedar Singh whereas the case of the respondent no. 6 is that the property was gifted by her mother, Kumda Kuer who was wife of Sarjoo Singh, own brother of late Kedar Singh. Thus, ‘the DCLR’ could not have passed any order under the said section of ‘the 2000 Act’.

19. Learned counsel for the petitioner has drawn attention of this Court in the case of **Ram Bachan Singh vs. State of Bihar** reported in **2023 (2) PLJR 554** and it would be relevant to incorporate paragraph nos. 9 to 11 which read as follows:-

*“Having heard come the the parties and taking into consideration the avements*



*made, the question with respect to maintainability of an application under the Band Disputes Act 2009 came up for consideration in the Court in the case of **Basudev Saw & Ors. vs. The State of Bihar & Ors.** Which was decided by judgement dated 29.03.2023 passed in CWLC No 9536 of 2022. The relevant portion of the said judgment is quoted hereinbelow for ready reference:-*

*“From the materials on record, what is not in dispute is that the application filed by the petitioners as contained in Annexure 1 to the writ petition before the D.C.L.R., Dehri, Rohtes was under the Bihar Land Disputes Resolution Act, 2009.*

*Admittedly, the case of the respondent no. 5 not being that the land in question was a Government land, which was settled in his favour under any of the Acts content in Schedule-1 to the Act, there can be no dispute with respect to the fact that the respondent no. 5 is neither an allottee nor a settlee as defined under the Act.*

*The next question which would arise is as to whether the authority under the Act would have jurisdiction to decide the disputes as mentioned in Section 4(1)e to 4(1)j*



*with respect to persons who are not settlee/allottee as in the case of this petitioner it is true that sections 4(1) (a), (b) and (c) specifically mentions the term "setllee/allottee" while the same it not used in sections 4(1)(e) to 4(1)(j). At this stage, it would be relevant to refer to the preamble of the Act for purpose of ascertaining the intent for which the legislature enacted the Act.*

*The preamble of the Act is reproduced hereinbelow for ready reference:*

*“Preamble - Whereas in the State of Bihar, disputes relating to record of rights, boundaries, entries in revenue records, unlawful occupation of raiyati land and forcibly dispossession of allottees and settlees of public land generate problems and cause unnecessary harassment to bona fide allottee/settlees, raiyats or occupants*

*WHEREAS, such disputes with respect to raiyati land or public land allotted in favour of different classes of allottees are unnecessarily occupying major space of Civil Courts and Hon'ble High*



*Court and which should otherwise have been resolved by the Revenue Authorities who may be better equipped to deal with such disputes having regard to their continued presence in the field offices and their expertise in Revenue Administration*

*WHEREAS in larger public interest it is deemed necessary to provide for effective and speedy mechanism to resolve such disputes which give rise to major turbulence if not addressed immediately and effectively*

*AND WHEREAS, it has been found in analysis of data relating to nature of disputes that they mostly appertain to matters connected with the record of rights, partition of Jamaband, forcible dispossession of allottees/raiyats, boundary disputes etc. and in this context, the administration of the following Acts is involved;*

*(1) The Bihar Land Reforms Act, 1950,*

*(2) The Bihar Tenancy Act, 1885*

*(3) The Bihar Privileged Persons Homestead Tenancy Act,*



1947.

(4) *The Bihar Bhoodan Yagna Act, 1954,*

(5) *The Bihar Land Reforms (Fixation of Ceiling and Acquisition of Surplus Land) Act, 1961,*

(6) *The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956.*

*AND, whereas, different forums and procedures have been provided for the resolution of disputes under the above referred Acts and it is considered expedient to provide a uniform and common forum, procedure and mechanism which would achieve the objective of effective, efficacious and speedy resolution of disputes"*

*From reading of the preamble and the Act as a whole, there remains no doubt that the purpose of the legislature in enacting the Act was effective and speedy mechanism to resolve disputes with respect to matters connected with record of rights, partition of jamabandi, forcible dispossession of allottees/raiyats, boundary disputes etc. and in this context, the Acts namely The Bihar*



*Land Reforms Act, 1950, The Bihar Tenancy Act, 1885, The Bihar Privileged Persons Homestead Tenancy Act 1947, the Bihar Bhoodan Yagna Act, 1954, the Bihar Land Reforms (Fixation of Ceiling and Acquisition of Surplus Land) Act, 1961 and the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 were involved.*

*Thus in the opinion of the Court, what appears from the reading of the Act as a whole along with its preamble as quoted herein above and specifically section 3 of the Act, the purpose of the Act is on resolution of any dispute arising out of or under any of the six Acts mentioned in Schedule-1.*

*So far as the facts of the instant case is concerned, the case of the respondent no. , on whose application the proceedings under the Bihar Land Disputes Resolution Act, 2009 commenced in the Court of the learned D.C.L.R., Dehri Rohtas was neither an allottee nor a settlee nor was his case that the land in question which is the subject matter of the*



*dispute came in his possession under any of the six Acts mentioned in Schedule-I to the Bihar Land Disputes Resolution Act, 2009.*

*Thus, in view of the facts stated hereinabove, the application filed by the respondent no. 5 before the D.C.L.R., Dehri, Rohtas under the Bihar Land Disputes Resolution Act, 2009 was not maintainable and as a result the order dated 20.05.2022 passed in Case NO. 17/2021-22 by the D.C.L.R. , Dehri Rohtas being without jurisdiction, is not sustainable and is hereby quashed”*

*So far as the facts of the instant case is concerned, in the opinion of the Court, the same are similar to the facts of the case of **Basudev Saw (supra)**. Herein also the petitioner through this ancestors claim to be khatiani raiyat. The petitioner was paying rent and was being granted rent receipts. It is not in dispute that the petitioner herein is neither an allottee nor a settlee of the land in question nor is the petitioner claiming right over the land in question an a result of the same having been settled under any one of the six Acts mentioned in Schedule 1 of the Bihar Land*





*Disputes Resolution Act, 2009. Thus in the opinion of the Court the very application filed by the petitioner on 21.11.2017 under section 4(1)(h) of the Bihar Land Disputes Resolution Act 2009 before the Deputy Collector Land Reforms was not maintainable*

*Consequently the order dated 9.2.2018 (Annexure-4) passed in Land Dispute Case No. 9/2017-18 by the DCLR, Kahulgaon would without jurisdiction. As such the orders dated 8.10.2018/22.10.2018 (Annexure-5) passed in Misc. (BLDR) Case No. 2/1018-19 by the Divisional Commissioner, Bhagalpur as also the order dated 13.1.2020 (Annexure-8) passed in B.LT. Case No. 172 of 2019 by the Bihar Land Tribunal Patna would also not be sustainable. As such the order dated 9.2.2018 (Annexure-4), order dated 8.10.2018/22.10.2018 (Annexure-5) and order dated 13.1.2020 (Annexure-8) are all set aside*

*The writ application stands disposed of with liberty to the petitioner to approach the Civil Court of competent jurisdiction for appropriate relief.”*

**20.** The aforesaid facts/details as also a perusal of ‘the 2009 Act’ would clearly answer to the original question



that was incorporated in the first paragraph of the writ petition.

This Court thus holds that the Deputy Collector Land Reforms, Bikramganj Rohtas definitely travelled beyond Section 4 of ‘the 2009 Act’ in passing the order in question and in that circumstances, the same needs interference.

21. At this stage, learned counsel for the respondent no. 6 submits that he may be given liberty to approach the competent authority for the redressal of his grievance. The said liberty is always available to the aggrieved person(s) much less the petitioner herein.

22. The order dated 04.11.2022 passed in Land Dispute Case No. 30/2022-23 by the Deputy Collector Land Reforms, Bikramganj, Rohtas stands quashed.

23. The writ petition is allowed. No cost.

**(Rajiv Roy, J)**

Jagdish/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	03.04.2024
Transmission Date	

