

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5554 of 2013

Manorma Prasad, wife of Devkinandan Prasad @ Chunchun Babu, Resident of Village- Kusmari, P.S. Riga, District- Sitamarhi, presently elected Mukhiya of Gram Panchayat Raj, Kusmari

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna
2. The Principal Home Secretary, Government of Bihar, Patna
3. The Commissioner, Tirhut Division, Muzaffarpur
4. The Joint Director Consolidation, Muzaffarpur
5. The District Magistrate, Sitamarhi
6. The Sub-Divisional Magistrate, Sitamarhi Sadar
7. The Circle Officer, Riga, Sitamarhi
8. M/s. Riga Sugar Company Limited, At and P.O. Riga, District- Sitamarhi, through its President Sri Suraj Dev Shukla, son of Late A.B. Shukla, Resident of Sugar Mill Colony, Dhnuka, Gram, Riga P.O. and P.S.- Riga, District- Sitamarhi.

.... Respondents

Appearance:

For the Petitioner : Mr. Gopal Govind Mishra, Advocate
Mr. Krishna Murari, Advocate

For Respondent Nos. 1 to 7 : Mr. P.K.Sinha, A.C. to GA XII

For the Respondent No. 8 : Mr. Y.V.Giri, Senior Advocate
Mr. Ashish Giri, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and


HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 02-02-2015

The present writ petition has been filed as a Public Interest Litigation, inter alia, seeking a direction to the respondents to not disturb the play ground popularly known as 'Brindaban Garden' situated at Mauza Panchhor, P.S. Riga, District Sitamarhi said to be '*gairmajarua aam land*'.



2. It is stated on behalf of the petitioner that the land in question has been settled on the respondent no. 8, M/s. Riga Sugar Company Limited, through order dated 30.05.1998 passed by the Joint Director Consolidation, Muzaffarpur following a remand order dated 01.04.1996 passed by this Court in CWJC Nos. 661 and 662 of 1984. It is claimed that the land so settled is recorded as '*gairmajarua aam land*' in the name of the Government of Bihar in the survey khatian and was illegally settled in favour of the respondent no. 8 against the interest of the general public. It is stated that the land was being used as a play ground/park, for different festivals, etc., and that the settlement leads to interference with the functioning of the temple and the Sevaniketan Middle School, which are situated in the area.

3. Heard Sri Gopal Govind Mishra, learned counsel for the petitioner, Sri Y.V.Giri, learned senior counsel for the respondent no. 8 and Sri P.K. Sinha, Assistant Counsel to G.A. XII for the respondent nos. 1 to 7.

4. This Court finds it difficult to accept the contention of the petitioner. Admittedly the land in question was settled on the respondent no. 8 as far back in the year 1998. Such settlement does not appear to have been challenged, either by the petitioner or by anybody, and it is only after a long lapse of about one and half decades, that the petitioner has

approached this Court through the present Public Interest Litigation.

5. There was remedy in the law, for challenging the order dated 30.05.1998 passed by the Joint Director Consolidation, Muzaffarpur at the appropriate time. That however, has not been done. Besides, this Court in its recent order dated 27.01.2012 in CWJC No. 454 of 2012 filed by the respondent no. 8 has even directed the Circle Officer to grant rent receipts to the respondent no. 8 after noticing that its name was recorded in the revenue records but the rent receipts had been granted only till the year 2001. The respondent no. 8 was further granted liberty to approach the District Magistrate, Sitamarhi as well as the Superintendent of Police, Sitamarhi for police protection in view of disturbance to its possession being faced by it on account of local intervention of the villagers.

6. In the above facts and circumstances, the writ petition cannot be maintained as a Public Interest Litigation and accordingly it is dismissed.

(L. Narasimha Reddy,CJ)

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(Vikash Jain, J)