

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8737 of 2018

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Ram Subhag Singh S/o Late Suryanath Singh, Resident of Village- Raghopur,
P.S.- Bakhtiyarpur, Distt- Patna.

... .. Petitioner

Versus

1. The State Of Bihar
2. Principal Secretary, Revenue and Land Reform Dept, Govt. of Bihar, Patna.
3. Commissioner, Patna Division, Patna.
4. The Collector, Patna.
5. Land Acquisition Officer, Patna.
6. Deputy Collector, Land Reforms, Barh.
7. The Circle Officer, Bakhtiyarpur, Dist- Patna.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Surendra Kumar Mr. Jainendra Kumar Pushkar
For the Respondents	:	Mr. Rishi Raj Sinha, SC-19 Mr. Akhilesh Kumar Sinha, AC to SC-19

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

8 01-08-2019 A supplementary counter affidavit is being filed on behalf of State respondents, which is being taken on record.

This writ application has been filed seeking quashing of an order, dated 22.02.2016, passed by the Deputy Collector Land Reforms, Barh, in Case No. 1 of 2015-16, whereby he has apparently reviewed his own order, earlier passed in the same case on 11.12.2015 on the basis of a request made by the Land Acquisition Officer, Patna. The order, dated 11.12.2015, and the impugned order, dated 22.02.2016, have been brought on record by way of Annexures-12 and 14 respectively. On perusal of the



subsequent order, dated 22.02.2016, it is easily evincible that it has been passed pursuant to a request made to him by the Land Acquisition Officer, Patna, through his letter dated 03.02.2016.

As the Court was clueless, as to what kind of request was made by the Land Acquisition Officer, Patna, which had compelled the Deputy Collector Land Reforms, Barh, to review his own order, the Court had requested the learned counsel representing the State to produce the original records of the said case. The records have accordingly been produced. At page 50 of the original records, the said letter No.329 dated 03.02.2016, written by the Land Acquisition Officer, Patna, addressed to the Deputy Collector Land Reforms, Barh, Patna, is available. Following are the contents of the said letter :

“समाहरणालय, पटना।
(जिला भू-अर्जन शाखा)

पत्रांक 329 / भू-अर्जन दिनांक 03/2/2016

प्रेषक,

जिला भू-अर्जन पदाधिकारी,
पटना।

सेवा में,

भूमि सुधार उप समाहर्ता,
बाढ़, पटना।

विषय:- वाद सं-01/2015-16 के संबंध में।

महाशय,

उपर्युक्त विषयक वाद सं-01/2015-16 राम
सेवक सिंह बनाम् अंचल अधिकारी, बख्तियारपुर के संदर्भ में



आपके द्वारा पारित आदेश का अवलोकन किया गया। उक्त आदेश में कतिपय त्रुटियों के निराकरण हेतु पुनः समीक्षा के लिए आदेश की छायाप्रति संलग्न कर भेजी जा रही है।

कृपया शीघ्र कार्रवाई करने की कृपा की जाय।

विश्वासभाजन

ह0/—

जिला भू-अर्जन पदाधिकारी,
पटना।”

On the same day, i.e., 03.02.2016, the Deputy Collector Land Reforms, Barh, issued a notice to the petitioner for rehearing of the case as, according to him, the land in question was Government land and not a *raiya* land of the petitioner as held by him earlier in his order dated 11.12.2015. The pace, with which the Deputy Collector Land Reforms moved, is evident from the records, after he received the letter from the Land Acquisition Officer, Patna. Through notice issued on the same day, i.e., 03.02.2015, the petitioner was asked to appear before him along with all relevant records on 05.02.2016. The notice was got served on the petitioner on 04.02.2016. On 08.02.2016, the Deputy Collector Land Reforms sought legal opinion from the Government Pleader. Learned Government Pleader, who received the request for giving his legal opinion, sent his legal opinion on 10.02.2016. After having received the legal opinion, the Deputy Collector Land Reforms,



blaming the Circle Officer of having furnished wrong information, leading to passing of the order dated 11.12.2015, passed the impugned order dated 22.02.2016.

The description of land, in question, has been given in paragraph 4 of the application, admeasuring 32 decimal of S.P. No. 1146, Khata No.263, situate at Village-Madhapur Mahal in the district of Patna. The said land has been used for construction of NH-31. Amount of compensation was determined to be paid to the petitioner. In the meanwhile, before the amount could be paid, the developments, as noted above, took place and by subsequent order dated 22.02.2016, the Deputy Collector Land Reforms has held the said land to be Government land.

I have heard Mr. Surendra Kumar, learned counsel appearing on behalf of the petitioner and Mr. Akhilesh Kumar Sinha, learned A.C. to S.C.-19.

On perusal of the impugned order dated 22.02.2016, which has apparently been passed by the same Officer, who had passed the earlier order dated 11.12.2015, it is evident that the Deputy Collector Land Reforms has not at all applied his mind and has based his decision on the legal opinion of learned Government Pleader, Barh, and the report of the Circle Officer.



The impugned order is, on the face of it, cryptic and unreasoned, which discloses no application of mind at all. Secondly, there is yet other question, which has emerged whether the Deputy Collector Land Reforms had any power of review of his own order dated 11.12.2015. It is not evident as to in exercise of which jurisdiction, the Deputy Collector Land Reforms had passed the order, dated 11.12.2015.

Mr. Akhilesh Kumar Sinha, learned A.C. to S.C.-19 has relied on certain provisions under the Bihar Land Disputes Resolution Act, 2009, under which, according to him, the order was passed. The Act does not stipulate any provision for review. There is provision under Section 14 of the Act under which any party, aggrieved by the order passed by the competent authority, may prefer an appeal before the Commissioner, within whose jurisdiction the order has been passed.

As a matter of fact, there was no application made even for review before the Deputy Collector Land Reforms and he appears to have acted on the dictation of the Land Acquisition Officer, Patna, for reviewing his own order dated 11.12.2015.

The order dated 22.02.2016, in my view, is unsustainable and beyond jurisdiction. As has already been



noted, since the order is non-speaking and unreasoned, the impugned order cannot be allowed to sustain. Accordingly, the order, dated 22.02.2016, passed by the Deputy Collector Land Reforms, Barh, is quashed.

This application is accordingly allowed.

It will, however, be open to the respondents to question the correctness of the order, dated 11.12.2015, of the Deputy Collector Land Reforms, Barh, in accordance with law before the competent authority.

The original records is being returned to learned A.C. to S.C.-19.

(Chakradhari Sharan Singh, J)

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