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**(2023) 04 PAT CK 0009**

**In the Patna High Court**

**Case No :** Civil Writ Jurisdiction Case No. 16730 Of 2018

Ajay Kumar Ray

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

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**Date of Decision :** 03-04-2023

**Acts Referred:**

**Citation :** (2023) 04 PAT CK 0009

**Hon'ble Judges :** Partha Sarthy, J

**Bench :** Single Bench

**Advocate :** Rajesh Ranjan, Ram Pravesh Nath Tiwari, Navnit Kumar, Pramod Kumar

**Final Decision :** Disposed Of

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## **Judgement**

Heard learned counsel for the petitioner, learned counsel for the respondent-State and learned counsel for the respondent no. 5.

The petitioner has filed the instant application for the following relief(s):

"a) To issue appropriate writ / order / direction in the nature of Certiorari for quashing/setting aside the order vide Memo No. 399/Gop. dated 25.06.2018 passed by the Sub-Divisional Officer, Bettiah Sadar by which the learned S.D.O, Bettiah Sadar directed to Anchaladhikari, Majhauria to give possession of the land in dispute to respondent no. 5, by dispossessing the petitioner from the said land.

b) To issue appropriate writ / order for setting aside the order dated 10.09.2016 passed in BLDR Case No.47 of 2015-16, by the D.C.L.R., Bettiah whereby and where under the learned D.C.L.R. heard the matter ex-parte without serving notice to the petitioner and passed the order without perusal of the record of the case as the matter has already decided by the same court in the case no. 190/2012-13.

c) To affirm the order dated 02.05.2015 passed in BLDR Case No. 190/2012-13, passed by D.C.L.R, Bettiah, by which the claims of the respondent no.5 in

regards to the land in dispute has already decided as not maintainable.

d) To issue any other appropriate writ or writs under the facts and circumstance of the case, in favour of the petitioner.”

Besides making his submission on merit of the case, it is submitted by learned counsel for the petitioner that the instant application arises out of the petition filed by respondent no. 5 before the Deputy Collector Land Reforms, Bettiah Sadar which was registered as Case no. 47 of 2015-16. Learned counsel for the petitioner submits that the petitioner was not served with any notice in the B.L.D.R. Case no. 47 of 2015-16, had no information about the pendency of the said case, could not appear before the learned D.C.L.R., Bettiah and as such could not place his case. It is submitted that the order impugned dated 10.9.2016 (Annexure-3) is bad for violation of principles of natural justice. It is further submitted that even on an earlier occasion the respondent no. 5 had filed Case no. 190 of 2012-13 which was incorrectly stated by him in paragraph no. 8 of the petition of B.L.D.R. Case no. 47 of 2015-16 to be still pending, although the same had been disposed of as not maintainable on 2.5.2015 itself.

On the other hand, learned counsel for the respondent-State and learned counsel for respondent no. 5 submit that in the proceedings before the D.C.L.R., notice was issued to the petitioner and he chose not to appear. Learned counsel for respondent no. 5 further submits that the land in question in the earlier proceeding and the present proceeding are different.

Having heard learned counsel for the parties and without going into the merit of the case of the respective parties, from the ordersheet of B.L.D.R. Case no. 47 of 2015-16 brought on record it transpires that by order dated 18.3.2016, the D.C.L.R. Bettiah (respondent no. 3) directed that information about the application filed by the respondent no. 5 be given to the other side. However, thereafter there is no order / noting to the effect of valid service of notice on the petitioner herein. Thus, this Court is not satisfied that the notice in B.L.D.R. Case no. 47 of 2015-16 pending in the Court of D.C.L.R., Bettiah was validly served on the petitioner herein. Thus there is clear case of violation of principles of natural justice and the writ application is fit to be allowed on this ground alone.

As a result of the above discussion, the order impugned dated 10.9.2016 (Annexure-3) passed in B.L.D.R. Case no. 47 of 2015-16 by the D.C.L.R., Bettiah, West Champaran (respondent no. 3) is set aside.

Both the petitioner as also the respondents will appear before the D.C.L.R., Bettiah in B.L.D.R. Case no. 47 of 2015-16 on 2.5.2023, on which date they will be informed about the next date fixed in the case by the D.C.L.R., Bettiah. The parties will be at liberty to file further affidavits bringing on record all supporting documents and raising all contentions which were raised in the instant writ application and may be available to them. The D.C.L.R., Bettiah will take into consideration all the material filed by the parties and proceed to decide the case in accordance with law at the earliest preferably within a period of four months

from the date of their first appearance.

This writ application stands disposed of.