

(2016) 09 PAT CK 0006

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No.25739 of 2013

Anil Kumar Jha

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 06-09-2016

Acts Referred:

Citation : (2017) 1 PLJR 23

Hon'ble Judges : Kishore Kumar Mandal, J.

Bench : Single Bench

Advocate : Mr. Rajiv Roy, Advocate, for the Respondent; Mr. Nagendra Upadhyay, Advocate, for the Petitioner

Final Decision : Dismissed

Judgement

Kishore Kumar Mandal, J. - Heard the Counsel for the petitioner and the State.

2. Parties have exchanged the pleadings.

3. I.A. No. 6846 of 2016 has been filed by the son of the petitioner for being impleaded as the co-petitioner as the cause was raised by his father on behalf of the petitioner on whose instance the application for settlement of government waste land was forwarded by the authorities of the General Reserve Engineering Force where after Settlement Case No. 06/2002-03 was initiated.

4. Having heard the parties, the said application is allowed.

5. Heard.

6. The petitioner has called in question the order dated 14.07.2008 passed by the Sub-Divisional Officer, Saharsa in Settlement Case No. 06/2002-03 whereby the claim of the petitioner for settlement of government waste land appertaining to Khesra no. 798 (0.93 decimals) and Khesra no. 799 (0.13 decimals) as well as Khesra no. 787 (2.15 decimals) situated in mauza Jajauri in the district of Saharsa was rejected after having found that there was no acceptable resolution of the Gram Sabha. The authority also noted in the said order that the land

appertaining to Khesra no. 798 and 799 was recorded in the Record of Rights as Gairmazarua Aam land which was for the use of the general people. There was no recommendation by the Aam sabha of the Gram panchayat.

7. Before the Court proceeds further, let it be recorded that no one like the petitioner has a legal vested right to claim as a matter of right a particular piece of land settled/allotted to him/them in accordance with the circulatory provision of the State. In the case at hand, the respondent Sub-Divisional Officer did not approve the proposal recording reasons therefor. However, he has also directed that the case can be taken up for further consideration if the proposal of the Gram Sabha with regard to allotment/settlement of those lands is passed/resolved in the meeting of the Gram Sabha. This was so observed considering the facts that the land was for the use of the people at large.

8. In paragraph 9 of the counter affidavit filed on behalf of respondent nos. 2 to 5, it is stated that the after the said order was passed by the Sub-Divisional officer, the proposal was placed before and considered by the Aam Sabha of the Gram Panchayat wherein it was resolved that the land cannot be settled/allotted. The proceedings of the Aam Sabha of the Gram Panchayat dated 15.8.2009 and 15.08.2012 have been spelt out in paragraph 9 wherefrom it appears that considering the use of the land by the residents of the Panchayats, the proposal was turned down.

9. Counsel for the petitioner submits that the resolution of the Gram Sabha is not in accordance with law. Earlier to this, the authorities had found favour with the proposal for settlement of the land in question in favour of the petitioner.

10. Learned Counsel for the State, on the other hand, submits that if the land recorded in the record of rights as Gairmazarua Aam land and is proposed for the use of the general public then the Gram Panchayat is the body which can consider whether the same can be permitted to be allotted or settled. In the case at hand, the Aam Sabha of the Gram Panchayat has resolved not to permit settlement of the land claimed by the petitioner.

11. Seen thus, I am unable to find any breach of the statutory right of the petitioner. After all it is a right created under the circular of the government which is subject to various conditions. The petitioner cannot claim a particular piece of land for settlement.

12. In the case at hand, the land claimed by the petitioner was not accepted by the Aam Sabha of the Gram Panchayat. In the aforesaid background, I find no merit in the writ application. It is, accordingly, dismissed.