

(2011) 04 PAT CK 0138

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 3022 of 1992

Kapil Deo Narayan Sharma and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 27-04-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 3 PLJR 651

Hon'ble Judges : R.M. Doshit, C.J

Bench : Single Bench

Final Decision : Allowed

Judgement

R.M. Doshit, C.J.—This petition under Article 226 of the Constitution arises from the order dated 13th March 1992 made by the Additional Collector, Patna in respect of settlement of certain parcels of land and rent fixation made by the Circle Officer in Rent Fixation Case No. 8/66-67 in favour of the writ Petitioners.

2. According to the writ Petitioners, the disputed parcels of land were settled in favour of their ancestors more than 60 years ago. The Block Development Officer after approval by the Sub Divisional Officer made the refixation of rent in Rent Fixation Case No. 8/66-67. The said order has now been cancelled by the Additional Collector without the knowledge of the writ Petitioners without giving an opportunity to show case or of hearing.

3. The impugned order dated 13th March 1992 made by the Additional Collector suggests that the disputed parcels of lands were uncultivated land of the State Government and that the said lands were required for allotment to the landless persons.

4. The petition is contested by the Respondents. The Circle Officer has filed counter affidavit. It is stated that the disputed lands were alluvial lands used as playground and grazing field. The Block Development Officer had no authority to settle the said lands in favour of the Petitioners or of fixing the rent thereof. The

concerned Block Development Officer had settled the lands in favour of the writ Petitioners without following due procedure and without the authority of law. The order of settlement and fixation of rent being void was required to be cancelled.

5. Be that as it may, the allegation that the impugned order was made in violation of principle of natural justice is not denied. In my opinion, once the settlement was made in favour of the writ Petitioners, however illegal it may be, before the District Collector proceeded to cancel the said settlement it was imperative to give the Petitioners an opportunity to show case and of hearing, if required. The impugned order, therefore, deserves to be set aside on the ground of violation of principle of natural justice alone.

6. For the aforesaid reason, the petition is allowed. The impugned order dated 13th March 1992 (Annexure-1 to the writ petition) is quashed and set aside. The parties will bear their own cost.

7. It is clarified that this Court has not examined the legality or otherwise of the settlement or the order of fixation of rent made in favour of the writ Petitioners.