

(2016) 02 PAT CK 0120

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 22138 of 2012

Shiv Kumar Prasad

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 26-02-2016

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2016) 2 PLJR 906

Hon'ble Judges : Mr. Birendra Prasad Verma, J.

Bench : Single Bench

Advocate : Mr. Bankey Bihari Singh, Mr. Sanjay Kumar and Mr. Shailendra Prasad, Advocates, for the Appellant; Mr. Kundan Bahadur Singh, SC 22. and Mr. Madanjeet Kumar, AC to SC 22, for the Respondent

Final Decision : Dismissed

Judgement

Mr. Birendra Prasad Verma, J.(Oral) - Heard the parties.

2. The petitioner is aggrieved by order dated 13.09.2012/25.09.2012 passed in Case No. 91 (M) 12 by the respondent District Collector, Nawada, as contained in Annexure-4 to the writ petition, whereby and where under a direction has been issued for lodging an FIR against the petitioner for selling the settled land in question by claiming to be his ancestral land and other consequential actions have also been directed to be taken against the petitioner for his impugned action, which was the subject matter of consideration before the respondent District Collector, Nawada.

3. Apart from other things, the learned counsel appearing on behalf of the petitioner submits that the impugned order is not sustainable in law on account of violation of rules of natural justice. According to him, no notice ever was issued by the District Collector before passing the impugned final order. In support of his above contention, he has drawn the attention of this Court towards the entire order-sheets of the aforesaid case, which has been brought on record

as Annexure-3 to the writ petition.

4. The learned AC to SC 22, appearing on behalf of the respondent nos. 1 to 5, and the learned counsel, appearing on behalf of the respondent no.6, though, have opposed the prayer made on behalf of the petitioner, but they have not been able to demonstrate before this Court by showing any valid document or order-sheet that before passing the impugned final order, opportunity of hearing was given to the petitioner. The learned counsel appearing on behalf of the respondent no.6, who has filed a detailed counter affidavit today itself in court has not brought on record any document to dislodge the claim raised on behalf of the petitioner regarding violation of rules of natural justice.

5. In above view of the matter, this Court is of the opinion that the matter requires reconsideration and a fresh decision, as apparently there has been violation of rules of natural justice.

6. For the reasons recorded above, the impugned order dated 13.09.2012/25.09.2012 passed in Case No. 91 (M) 12 by the District Collector, Nawada, as contained in Annexure-4, is hereby set aside and quashed. All the consequential actions are also quashed and the matter is remanded back to the District Collector, Nawada with a direction to decide the aforesaid Case No. 91 (M) 12 afresh, but before passing any final order, opportunity of hearing must be given to all concerned including the petitioner and respondent no.6, besides others, if any.

7. In order to expedite the matter, the petitioner as also the respondent no.6 are hereby directed to appear before the respondent District Collector, Nawada within a period of one month from today with a certified copy of the present order, where after the respondent District Collector, Nawada shall fix a firm date for proceeding in the matter afresh and for passing final order in accordance with law. If the petitioner fails to appear before the respondent District Collector, Nawada within the aforesaid period of time and if any final is passed, then he shall not be permitted to challenge the said order anywhere on the ground of violation of rules of natural justice.

8. It is also clarified that the parties shall be at liberty to raise all the issues of facts and law, which may be available to them with respect to the lands in question before the respondent District Collector, Nawada.