

In The Court of Commissioner, Saran Division, Chapra
Misc. (Bhoodan) Case No. 57/2013

Moti Ram

Vrs.

Ram Nath Ram & ors.

The instant second revision case is directed against the impugned order passed by Collector, Gopalganj in Bhoodan Revision case No. 03/2012 on 11.12.2012.

The brief facts of the case are that a Bhoodan Revision case bearing No. 03/2012, Moti Ram @ Moti Harijan Vrs Ram Nath Ram and ors. Was initiated by Collector, Gopalganj pursuant to the direction contained in the order dated. 15.12.2011, passed by Hon'ble High Court in CWJC No. 5607/2011 whereby order passed by DCLR, Hathua in Bhoodan Appeal case No. 08/2010-11 on 29.11.2010 was under challenge. The learned Collector, after hearing the parties finally vide order dt. 11.12.2012 rejected the appellate order of DCLR. Feeling aggrieved by the said order of Collector, the present appellant has filed the instant case before this Court.

Heard the learned counsel for the petitioner only as the learned counsel for the respondent remained absent despite being given last chance earlier.

The learned counsel appearing on behalf of the petitioner while assailing the impugned order submitted that the same is illegal, improper and erroneous the same is based on arbitrary malafide and ill motive and action against poor and landless person belonging to S.C. category. He also said that the learned Collector completely ignored the order passed by the C.O. in Rent Fixation case No. 21/2009-10 thereby violated the provisions of law and natural justice. He also argued that the learned lower Court ought to have held that the land in question is under the possession of petitioner and not under the possession of o.ps. He further argued that the land in question appertaining to khata No. 234, plot No. 932 area 75 decimal situated in village saropain, P.S. Vijaypur, Dist-Gopalganj was the Gair Mazurwa Malik land of Hathua Raj and the landlord donated the said land to Bihar Bhoodan Yagna Committee and subsequently Bhoodan Yagna Committee granted parcha to father of the petitioner in the year 1959 and since then the said land has been coming in peaceful possession. The learned counsel also argued that the o.ps filed an appeal before DCLR Hathua against the order dt. 08.01.2010 passed by C.O. Vijaypur in Bhoodan Rent Fixation case No. 21/2009-10 on erroneous grounds and ill motive with a view to harass the petitioner and the learned DCLR without considering the whole facts and without making any inquiry suspended the order which is illegal. The learned counsel lastly said that even the Collector also without going into merit of the case rejected his case as such the impugned order is fit to be set aside.

Considering the facts and circumstances of the case, material available on records, pleadings forwarded by the learned counsel for the petitioner and on perusal of the impugned order, it is seen that the learned Collector after careful consideration of all the relevant facts has finally arrived at his conclusion. The relevant portion of the said order reads thus:-


“निम्न न्यायालय आदेश के अवलोकन से स्पष्ट होता है कि भूमि सुधार उप समाहर्त्ता द्वारा स्वयं स्थल निरीक्षण किया गया है और पाया गया है कि विवादित जमीन हरिजन बस्ती के रूप में तबदील है जिसमें लगभग 20 से ज्यादा मकान, पलानी वोगैरह है तथा उसपर पुनर्वादी का दखल नहीं है। भूमि सुधार उप समाहर्त्ता द्वारा यह भी पाया गया है

कि अंचल पदाधिकारी द्वारा वगैर स्थल जांच किये भूदान लगान निर्धारण अभिलेख सं०-21/09-10 संधारित किया गया है। उभय पक्षों को सुनने एवं अभिलेख में उपलब्ध कागजातों के अवलोकन से स्पष्ट होता है कि विवादित जमीन पर विपक्षीय का आवासीय दखल पचासों वर्ष से है तथा वर्ष 1959 में भूदान प्रमाण पत्र पुनर्वादी के पिता को मिला है, लेकिन लगान निर्धारण की कार्यवाही वर्ष 2009-10 में प्रारंभ की गयी है। पुनर्वादी यह स्पष्ट नहीं कर सके कि उनके पिता या स्वयं पुनर्वादी पचास वर्षों तक लगान निर्धारण क्यने हेतु आवेदन पत्रों क्यों नहीं दिये तथा अगर विपक्षीय द्वारा उन्हें बेदखल किया गया था तो उसके विरुद्ध आवेदन पत्र क्यों नहीं दिये। स्पष्ट होता है कि वगैर स्थल जांच किये अंचल पदाधिकारी द्वारा सम्पुष्ट एवं लगान निर्धारण की अनुशांसा की कार्यवाही की गयी है। पुनर्वादी द्वारा ऐसा कोई तथ्य इस न्यायालय में प्रस्तुत नहीं किया गया है जिससे निम्न न्यायालय आदेश में हस्तक्षेप किया जा सके। अतः प्रस्तुत पुनर्वादि आवेदन अस्वीकृत किया जाता है। आदेश से भूमि सुधार उप समाहर्ता, हथुआ को संसूचित करें।”

I do not find any apparent infirmity in the said order of the learned Collector which seems to be reasoned and speaking. On the other hand, the learned counsel for the petitioner failed to point out any specific illegality in the said order so as to enable this Court to make any interference.

For the aforementioned reasons, the impugned order is upheld and this petition being devoid of any merit is dismissed accordingly.

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra.