

**In The Court of Commissioner, Saran Division, Chapra**  
**Bandobasti Revision No. 392/2007**

**Kedar Nath Pal**

**Vrs.**

**Dhanesh Ram & ors.**

**ORDER**

The instant revision petition is directed against the impugned order passed by Addl. Collector, Gopalganj in Land Settlement case No. 02/2005-06 on 12.06.2007.

The brief facts of the case are that the present petitioner Kedar Nath Pal S/o Sri Krishna Pd. Pal, R/o vill-Peuli, circle-Hathua, P.S.-Mirganj, Dist-Gopalganj filed a case bearing No. 02/2005-06 before Addl. Collector, Gopalganj wherein he challenged the settlement order passed by SDO, Hathua with respect to 1 katha 18 dhur land of R.S. plot No. 270, khata No. 164 situated in Mouza Peuli in the district Gopalganj in favour of the present respondent. In the said case the plea taken by the present petitioner was that the said land being Gair Mazurwa Malik Parti Kadim was settled to his ancestors in the year 1925 by Malik Deoki Nandan Prasad as such the settlement made in favour of the present respondent is illegal. Thereafter, the learned Addl. Collector, Gopalganj after hearing the case finally vide order dt. 12.06.2007 rejected the said case. Feeling aggrieved by the said order the petitioner has preferred the instant revision before this Court.

Heard the learned counsel for the parties as well learned G.P. appearing on behalf of the state.

The learned senior counsel appearing on behalf of the petitioner strongly assailed the impugned order of learned Addl. Collector by saying that the same is illegal, arbitrary and without jurisdiction. He further submitted that the said disputed land is recorded in khatiyan as Gair Mazurwa Malik Parti Kadim. He further stated that the ancestor of the petitioner Indrassan Bherihar took settlement of the disputed land from the Malik Hathua Raj, the real owner in 1925 by paying Rs. 2 as Nazarana and thereafter the ancestors of petitioner constructed residential Bathan and shops over the disputed land and subsequently on the basis of return filed by Malik. Thereafter, Jamabandi No. 224 was created in the name of Indrassan Bherihar and he was paying rent to the state and now the petitioner is paying rent. He further argued that the present respondent wrongly got the settlement of the said land to which otherwise he was not competent and even before settlement the petitioner has not been given any opportunity to place the factual position of the said land. The learned counsel further argued that, although, the learned AC called for a report from C.O. Hathua regarding the possession but the learned A.C. without considering the said report held the respondent as a genuine claimant for settlement. He also submitted that the learned A.C. without considering the documents of the petitioner dismissed his appeal which is illegal. The learned counsel raised the important issue to be considered by this Court firstly whether the SDO had jurisdiction to settle the land in question without taking legal steps for cancellation of Jamabandi No. 224 of the petitioner. Secondly whether the story of settlement by the Ex-landlord to Deoki Nandan Lal is correct or the story of settlement to indrassan Bherihar ancestor of the petitioner is correct. The learned counsel lastly said that as the impugned order is illegal, the same is fit to be set aside.

The learned counsel appearing on behalf of the private respondent in his written argument mentioned that the respondent belongs to weaker section and a very poor person and

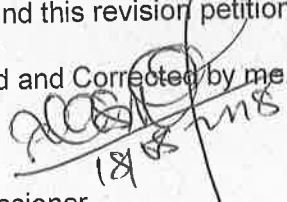
the said land was settled to him by the authority after obtaining satisfactory report of Karmchari and circle inspector and C.O. since then Jamabandi has been created and the respondent is paying rent to the state. He further argued that the petitioner is challenging the said settlement on the basis of Sadda Patta which has no legal value. He also submitted that as the owner of the said land was not the Hathua state, so he had no right to make settlement of the said land. He lastly said that the impugned order is legally correct as such the same is fit to be upheld.

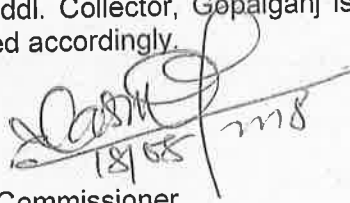
The learned Govt. pleader appearing on behalf of the state in his detailed submission through written argument stated that the said disputed land is recorded in khatiyani as Gair Mazurwa Malik Parti Kadim and the said land vested in the state after abolition of Zamindari. He further noted that the respondent being a member of schedule caste and landless, he applied for settlement of the said land and accordingly the said land was settled to him by SDO, Hathua and the claim of petitioner is false and illegal, the case of the petitioner is fit to be rejected.

Considering the facts and circumstances of the case, material available on records, arguments advanced by the learned counsel for the parties and on perusal of the impugned order, it is seen that in the instant case dispute between the parties relates to a small piece of land measuring 1 katha 15 dhur. The claim of the appellant is that the said land was settled to his ancestor by the erstwhile landlord Hathua Raj and since then they are in possession and Jamabandi No. 224 also exists in his favour and he pays rent to the state. On the other hand the claim of the respondent is that he being a member of S.C. community, the said land has been settled to him by the authority on the basis of report of concerned C.O. The learned Govt. pleader on the other hand opposing the arguments forwarded by the learned counsel for the petitioner, submitted that the petitioner claims land on the basis of settlement by Hathua Estate but the disputed land was not in Tauzi of the Hathua State. He further submitted that any person attached to the Hathua Estate had no right to settle the land and the claim of the petitioner is false and illegal as such the petitioner's case is fit to be dismissed. I find merit in the submission of the learned G.P. In fact, the petitioner, normally does not qualify to be included in the list of beneficiaries of the Govt. for settlement of land as he is not a member of the S.C. community. The whole claim of the petitioner seems to be based on false and concocted stories and the so called Jamabandi also seems to have been obtained on false paper. It is seen that the learned Addl. Collector, Gopalganj has discussed each and every aspects of the case properly before arriving at the final findings of fact. I do not find any illegality in the said findings. In fact, the learned counsel for the petitioner has also miserably failed to point out any specific illegality in the impugned order so as to give any scope of interference by this Court.

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

Dictated and Corrected by me.

  
18/5/58  
Commissioner  
Saran Division, Chapra.

  
18/5/58  
Commissioner  
Saran Division, Chapra.