

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6078 of 1997

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Dilip Kumar Tantiya son of Sita Ram, Tantiya, R/o Ward No.2, Holding No. 264,
P.S. Nirmali, in the district of Supaul.

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. None

For the Respondent/s : Mr. None.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 11-02-2015

Shivaji Pandey,J

No one appears either on behalf of petitioner or the State .

As it is an old matter, this Court would like to dispose of the
matter on the basis of materials available on the record.

In the present case, petitioner is challenging the order dated
26th February 1997 passed by the respondent Vice Chairman of Nirmali
Notified Area Committee cancelling the name of petitioner from the register
of right and directing to enter the holding, in the name of respondent no.6,
Sri Bishnu Kumar Chaudhary. Further prayer has been made that the
respondents be prohibited to issue receipt in favour of respondent no.6 and
also not to interfere with the right and title of petitioner by disturbing his
continuous possession over the house built long back over the land.

In the present case, matter relates to entry made in the records
of right maintained by the Municipal Corporation with respect to land
appertaining to Khata No. 136(new), 109(Old), plot no. 1139(old) measuring
8 katha 10 dhurs.

The original land holder of the aforesaid land was Ram Anugrah Singh who was son of Bhagwat Narain Singh. Ram Pal Singh was own brother of Ram Anugrah Singh.

On partition, the land fell in the share of Rajendra Prasad Singh. Accordingly, the land was recorded on mutation in the name of Rajendra Prasad Singh. Rajendra Prasad Singh was son of Ram Pal Singh.

Case No. 216 of 1984 was filed by Diip Kumar Tantiya in the Municipality, vide order dated 4th April 1987 claim of Dilip Kumar Tantiya and others was accepted and the name of Rajendra Singh was struck off from the record of rights. Bishnu Kumar Choudhary, respondent no.6 purchased the land from Rajendra Singh whereas Dilip Kumar Tantiya is said to have purchased from Parwen Kumar Singh son of Late Kameshwar Singh in the year 1995. Bishnu Kumar Choudhary filed Mutation Case No. 57 of 1996-97 on 18th June 1996 whereas Dilip Kumar Tantiya also filed Mutation Case No. 101 of 1995-96 which was registered on 15th July 1995.

It appears that both the parties have purchased the same piece of land one by one but admittedly the sale deed executed in favour of 'Dilip Kumar Tantiya was later one. It also appears that Bishnu Kumar Chaudhary also got the land mutated in his favour, later on case no. 6 of 1997 the Vice Chairman record a finding that mutation in favour of petitioner is per se illegal as he purchased from the person who was not at all entitled to transfer the land in his favour whereas and Bishnu Kumar Chaudhary, respondent no.6 purchased from correct land holder and he has better claim over the land.

A counter affidavit has been filed on behalf of Respondent

no.6 which mentions the same story that Dilip Kumar Tantiya got the land mutated in his favour wrongly.

As there is a dispute of title, any entry made in the revenue record is only for the purpose of depositing the revenue rent of land. Entry in the revenue record neither creates any right nor extinguishes the right. In such view of the matter, this Court is not inclined to interfere with the order impugned. However, both the parties, if so advised, may approach the civil court of competent jurisdiction for declaration of their right and title over the land in question.

With this observation, this petition is dismissed.

(Shivaji Pandey, J)

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