

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 5670 of 2006

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1. Muneshwar Yadav
 2. Munarik Yadav
 3. Dudheswar Yadav
 4. Beyas Yadav @ Beyas Muni Yadav, Sl. 1 to 4 are sons of Late Ram Prasad Yadav.
 5. Suresh Yadav
 6. Dwarik Yadav, Sl. 5 to 6 are sons of Late Indradeo Yadav.
- All 1 to 6 are Resident of Village – Dindir, Post Office – Dindir, Police Station Haspura, District Aurangabad (Bihar).
- Petitioners

Versus

1. The State of Bihar through Collector, Aurangabad (Bihar).
 2. Additional Collector, Aurangabad (Bihar).
 3. Sub-Divisional Officer, Daudnagar, Aurangabad.
 4. Land Reforms Deputy Collector, Daudnagar, District Aurangabad (Bihar).
 5. Anchal Adhikari, Haspura, District – Aurangabad (Bihar).
 6. Dilbahadur Rajbanshi S/o Late Ganesh Rajbanshi.
 7. (i) Shatrughan Ram S/o Late Bishwanath Kahar
(ii) Sontarwa Devi
(iii) Most Ram Somariya Devi, both 7(ii) & 7(iii) are D/o Late Bishwanath Kahar
- Sl. 6 and 7(i) to 7(iii) are Resident of Village + Post Office – Dindir, Police Station – Haspura, District – Aurangabad (Bihar).
- Respondents
- =====

Appearance :

For the Petitioner/s : Mr. Mrigendra Kumar

For the Respondent/s : Mr. Ajay Kr. Sharma
Mr. Anuj Kumar, AC to SC-7

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 05-02-2015

Heard learned counsel for the petitioners, learned A.C. to Standing Counsel – 7 as well as learned counsel, who has appeared on behalf of private respondents i.e. respondent no. 6 and 7(i) to 7(iii).

Six petitioners, invoking writ jurisdiction of this Court under Article 226 of the Constitution of India, have prayed for setting

aside order dated 10-01-2006 passed by the Additional Collector, Aurangabad in Rent Fixation Appeal No. 157 of 2004-05 directing the petitioners to take recourse before the Civil Court.

Learned counsel for petitioners submits that in respect of land measuring 3.75 Acres, a declaration has already been made by the court of competent jurisdiction and as such, in view of judgment and decree of competent court, the petitioners applied for fixation of rent.

Learned counsel for petitioners has referred to **Annexure '2'** i.e. judgment of the court below. However, from the judgment and decree, learned counsel for petitioners is not in a position to indicate as to whether while preparing judgment and decree, boundary of the said land was indicated or not.

In this case, by filing counter affidavit, the private respondents have indicated that the plot, in respect of which rent fixation has been claimed, is beyond the area decided by the civil court. In respect of land, over which further claim is being made, it has been asserted that respondent no. 6 and 7(i) to 7(iii) are having possession over the remaining portion of the land.

Keeping in view the fact that there is no exact indication of the boundary of the land in question, which has been decided in favour of the petitioners by the competent jurisdiction, the learned

Additional Collector has rightly not passed any positive order and granted liberty to the petitioners to get the matter adjudicated by the competent court.

I do not find any defect in the order impugned. If so advised, petitioners may avail appropriate remedy.

The petition stands dismissed.

(Rakesh Kumar, J.)

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