

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.45 of 1994
IN
Civil Writ Jurisdiction Case No. 738 of 88**

=====

Dr. Madan Mohan Singh, son of Late Jagdish Narayan Singh, resident of village- Gerabari, Police Station- Korha, District- Katihar.

.... Appellant

Versus

1. The State of Bihar, through the Additional Collector, Katihar.
2. The Land Reforms Deputy Collector, Katihar.
3. The Circle Officer, Korha, Police Station- Korha, District- Katihar.
4. Smt. Rukmini Devi, wife of Bishwanath Rishi, resident of village- Boura, Police Station- Korha, District- Katihar.

.... Respondents

=====

Appearance:

For the Appellant	:	Mr. Ray Saurabh Nath, Advocate.
For the Respondent Nos. 1, 2 & 3 :		Mr. Purendu Singh, G.P.-27
		Mr. Praween Kumar, AC to GP-27
For the Respondent No. 4	:	Mr. Mukesh Kumar Jha, Advocate
		Mr. Bhola Prasad, Advocate

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 18-03-2015

This Appeal is preferred against the order dated 24.03.1994 passed by the Learned Single Judge in C.W.J.C. No. 738 of 1988

The brief genesis of the case is that the Appellant purchased an extent of 6 decimals of land in Gairabari Village, District- Katihar bearing Khasra No. 943, Khata No. 240 from one Chhedi Sahni and Smt. Budhni on 11.02.1972. The name of the Appellant was entered in the revenue records on the basis of an order in Mutation Case No. 113/73-74. It appears that one Jaideo Jha purchased the left over part of the land from the vendor of the Appellant. Respondent No. 4 herein is said to



have purchased 4 decimals of land from Sita Ram Chaudhary who in turn purchased it from Jaideo Jha. When disputes arose in respect of the possession over the land, the proceedings under Section 145 of the Criminal Procedure Code were initiated ultimately they ended with certain directions. That resulted in filing of a Revision before the Additional Sessions Judge.

The Circle Officer, Gairabari, Respondent No. 3 herein passed an order dated 11.09.1982 in relation to the dispute between the parties regarding the land referred to above. He took the view that the 6 decimals of land purchased by the Appellant includes 2 decimals of land from Plot No. 944/1182 and, thereby he expressed his view on the title in respect of the 2 decimals of land. The Appellant approached the D.C.L.R., the 2nd Respondent, by filing an Appeal and the same was dismissed on 31.03.1983. Aggrieved by that, the appellant filed the writ petition. The Learned Single Judge dismissed the writ petition.

Heard Sri Ray Saurabh Nath, learned counsel for the Appellant, Sri Mukesh Kumar Jha, learned counsel for the Respondent No. 4 and Sri Purendu Singh Singh, learned Government Pleader-27 for the State.

On account of the dispute between the parties, in relation to the land, not only the proceedings under Sections 144 and 145 of the Criminal Procedure Code were initiated, but also the authorities of the Revenue Department were approached. The Circle Officer, the 3rd Respondent herein, is certainly conferred with the power to determine the correctness or

otherwise of the entries of the revenue records. However, he cannot deal with the question of title. If any occasion arises for determination of the title in respect of a land, the parties have to be relegated to a Civil Court. The 3rd Respondent did not in so many words say that he is dealing with the Mutation of title. However, the observation made by him, in respect of 2 decimals of land gives an impression that he proceeded on the assumption that the Appellant is not the owner of the 2 decimals of land, out of 6 decimals of land purchased by him. This is impermissible in the law.

We, therefore, allow the Appeal and set aside the order passed by the Learned Single Judge. The writ petition is allowed and the observation made by the 3rd Respondent, as regards the title in respect of 2 decimals of land, is set aside. We direct that none of the observations made by the 3rd Respondent in his order dated 11.09.1982 shall be treated as pronouncement on the dispute as to title, between the Appellant and the 4th Respondent. If they have any dispute over the land, it shall be open to them to work out their remedies before the Civil Court.

The Interlocutory Application, if any, shall stand disposed of. There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

Chandran/Md. Ibrarul

(Vikash Jain, J)

U			
---	--	--	--