IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5808 of 1994

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1. Mahendra Sah,
2. Suraj Sah, both sons of late Ram Rup Sah, resident of Village- Angauta, P.S. Nautan, District- Siwan.

.... Petitioners

Versus

1. Chandrajeet Sah, son of late Singhashan Sah, resident of Village- Angauta, P.S. Nautan, District- Siwan.
2. C.O. Mairwa
3. D.C.L.R. Siwan.
4. A.D.M., Siwan
5. The State of Bihar

.... Respondents

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Appearance :

For the Petitioners : Mr. Vikas Kumar, Advocate.
For Respondent No. 1 : Mr. B.D. Pandey, Advocate.
Mr. Jitendra Pandey, Advocate.
For the State : Mr. Mahboob Ashraf, A.C. to S.C. 27.

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

ORAL JUDGMENT

Date: 04-05-2015

Heard learned counsel for the petitioners, State and the counsel for Private Respondent No. 1.

2. Petitioners are aggrieved by order dated 19.07.1991 passed by Circle Officer, Mairwa in Case No. 59/88-89 (Annexure-1), whereunder in the light of the report of Halka Karmchari Circle Officer directed the lands-in-question to be recorded in the name of father of Respondent No. 1. Petitioners are also aggrieved by order dated 22.10.1992 passed by Deputy Collector Land Reforms, Siwan in Case No.

41/91-92 (Annexure-2), whereunder said case was directed to abate in terms of Section 4(c) of the Consolidation Act. He is also aggrieved by order dated 05.05.1994 passed by Additional Collector, Siwan in Jamabandi Correction Case No. 244/93-94/115/94-95, whereunder learned Additional Collector upheld the order of the Circle Officer creating jamabandi of the lands-in-question in favour of father of Respondent No. 1 holding that the sale-deed in question executed in favour of the petitioners transferring the lands-in-question in their favour is a forged, fabricated document. It is submitted on behalf of the petitioners that Circle Officer, Mairwa passed the initial order for recording the lands-in-question in favour of father of Respondent No. 1 behind the back of the petitioners ignoring his earlier order, as such, he had no jurisdiction to correct the records.

3. From the order passed by Circle Officer, Mairwa dated 19.07.1991, Annexure-1 it appears that the lands-in-question were recorded in the name of the petitioners earlier without notice to the father of Respondent No. 1, appreciating such fact the records were corrected under order dated 19.07.1991 after

notice to all concerned but such notice could not be served on the petitioners. Learned counsel for the petitioners in the light of the aforesaid submission submitted that after setting aside the order passed by Additional Collector, Circle Officer matter may be remitted back to Circle Officer, Mairwa for fresh consideration in the matter as before the impugned order was passed by Circle Officer he could not be heard.

4. No useful purpose will be served by remitting back the matter to the Circle Officer as superior Revenue Authority Additional Collector has considered the appeal arising out of order dated 19.07.1991 under the impugned order dated 05.05.1994, Annexure-3, has held the sale-deed executed in favour of the petitioners for the lands-in-question to be forged, fabricated document. Revenue Authorities, in my opinion, are not entitled to record such finding. In the circumstances, I dispose of the writ petition permitting the petitioners to file suit in Civil Court claiming title, possession over the lands-in-question in the light of sale-deed referred to in order dated 05.05.1994, Annexure-3 within 60 days

from today. For the period of 60 days status quo over the lands-in-question shall be maintained as this Court under order dated 25.11.1994 directed the parties to maintain status quo in the meantime as existing on 25.11.1994. The findings recorded by the Revenue Authorities in order dated 19.7.1991, 5.5.1994, Annexure-1, 3 shall be subject to the result of the findings recorded by competent Civil Court in the suit which the petitioners or their legal heirs shall file in the light of this order as it is well established that it is the competent civil court which can decide the validity of a document and the rights flowing therefrom. It goes without saying that the competent civil court shall not take into account the findings recorded by the Revenue Authorities.

(V.N. Sinha, J)

P.K.P.

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