

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11492 of 1995

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Ram Kumar Singh son of late Dukh Haran Pd. Singh, resident of village Dhangar,
Police Station Parsauni, District Sitamarhi

.... Petitioner

Versus

1. State of Bihar,
2. The Collector, Sitamarhi,
3. The Deputy Collector, Land Reforms, Sitamarhi,
4. The Circle Officer, Belsand, Sitamarhi,
5. The Secretary, District Bhudan Yagna Committee, Muzaffarpur,
6. Gagandeo Raut son of Bala Raut,
7. Manorath Raut son of Bilat Raut,
8. Fudena Kalik son of Lal Chandra Kalik,
9. Raktu Ram son of Nirsu Ram,
10. Marui Mahto son of Shiva Mahto,
11. Pupa Paswan son of late Bipat Paswan,
12. Chhathu Paswan son of Majhi Paswan,

All respondent nos. 6 to 12 are residents of village Dhangar Madanpur,
Police Station Parsauni, District Sitamarhi,

.... Respondent/s

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Appearance :

For the Petitioner : Mr. SIYA RAM SHAHI, Advocate

For the Bhoodan Yagna Committee : Ms Alka Verma, Advocate

For the Private Respondents: None

For the State: None

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 16-04-2015

I have heard learned counsel for the petitioner and the
respondent- Bhudan Yagna Committee and have perused the records
of this case.

However, no one has appeared for the other respondents.

This writ application has been filed, inter alia, for grant of the
following reliefs:-

- (a) For issuance of a writ in the nature of
certiorari in quashing the order dated 11.11.1993



passed by the D.C.L.R., Sitamarhi, Sadar, Respondent No. 3 in Case No. 70/86-87 and the order dated 12.12.95 passed by the Collector, Sitamarhi, Respondent No. 2 in Appeal No. 128/93. Both the orders are being annexed as Annexures 3 and 4 respectively to this writ application,

(b) For issuance of a writ in the nature of Mandamus commanding the Respondents not to interfere into the physical possession of the petitioner over the land in dispute.

(c) Any other relief/reliefs for which the petitioner is entitled under law as well as on facts.

The facts necessary for consideration of this case stand enumerated as under:

The petitioner is said to be son of late Dukh Haran Prasad Singh who, as per claim of the petitioner, died in the year 1956. The Deputy Collector, Land Reforms, Sadar, Sitamarhi, had noticed the petitioner in the Bhudan Confirmation Case No. 70/86-87 with respect to donation of land described in paragraph 6 of the writ petition of total area of 5.80 acres of different khata and plots of mouja Madanpur Revenue Thana No. 33.

The petitioner appeared and contested the matter, however,



vide Annexure 3 the donation has been confirmed by the concerned Deputy Collector, Land Reforms(hereinafter to be referred to as “DCLR”) and the appeal filed against that order has also been dismissed by the Collector, Sitamarhi vide Annexure 4 which is an order dated 12.12.1995. Both the orders are under challenge before this Court.

Mr. Siya Ram Shahi, learned counsel for the petitioner, raises diverse issues challenging the orders impugned. Learned counsel has drawn attention of this Court towards Annexure 1 which is the alleged “Danpatra”. It is submitted that the “Danpatra” itself suffers from several lacuna and no prudent person can come to a conclusion that the same could be a document of donation. Learned counsel points out that from the “Danpatra” it appears that the same was being executed by the father of the petitioner, viz., late Dukh Haran Prasad Singh, but he had not put his signature on the “Danpatra” rather his uncle Binda Prasad Singh had put his signature not as a donor but as a witness. Secondly, he contends that the “Danpatra” discloses that it is being made for 5 bighas of land but there is no description of the land at all in the “Danpatra” concerned rather everything has been kept blank as even in the column of village etc. nothing has been entered. Thus, he contends that this “Danpatra” ought not have been considered by the authorities concerned. That



apart, it is also contended that the petitioner is in possession of the land which is apparent from the report of the Circle Officer which has been noticed in the impugned order passed by the DCLR also and the entry with respect to the land in the revisional survey khatian is in the name of the father of the petitioner and part of the land which is being claimed to have been donated has been shown in the revisional records to have been mortgaged to two persons which the petitioner claims to have been redeemed in the year 1966. Learned counsel also points out that in similar nature of case for confirmation with respect to the land of his uncle Bhuwaneshwar Prasad Singh registered as Confirmation Case No. 59/86-87(Annexure 5), the DCLR had refused to confirm the donation as the document was neither signed by the person concerned nor was there any description of land. Learned counsel submits that the authority concerned cannot be allowed to take a different view in the identical matter.

Learned counsel for the respondent-Bhudan Yagna Committee vehemently opposed the aforesaid limb of argument advanced on behalf of the petitioner. She has submitted that, after donation of the land by the father, the petitioner is unnecessarily creating litigation only for the reason that the value of the land has multiplied several folds. She submits that purchases were already issued in the names of several persons which would be apparent from

the impugned orders.

However, none has appeared on behalf of other private respondents, i.e., the certificate holders.

In my considered opinion, the sole question that arises in this case for determination is:

“Whether Annexure 1 can be considered to be a valid document of donation?”

Upon appreciation of rival submissions of the parties, this Court finds force in the submission made by learned counsel for the petitioner.

Annexure 1 is said to have been executed in the year 1954 but there is no entry with respect to any date of execution of the “Danpatra”. Though it is claimed to have been executed by the father of the petitioner, namely, late Dukh Haran Prasad Singh, but he has not put his signature in the document. His brother, though may be a co-parcener or co-sharer, had also put his signature only as a witness. It is also apparent that he was not the executor of the document. The document does not show that the same was being executed by him, therefore, the finding of the DCLR that in view of the fact that the family was joint and late Binda Prasad Singh had signed in place of his brother would not be tenable as nobody can put a signature on behalf of a person without any power of attorney. It is not the case of any party that the brother of late Dukh Haran Prasad Singh has

executed the document. It is surprising as to how the DCLR could have come to such a conclusion as even if it is assumed that he was co-parcener of the joint family then execution of document could have been made by the Karta or manager of the family and nobody has claimed as such. Leaving that aside, the document was admittedly not executed by the aforesaid Binda Prasad Singh and surprisingly in the identical situation with respect to the “Danpatra” contained in Annexure 6 the other DCLR did not confirm the “Danpatra”. Even if it is assumed that the “Danpatra” can be considered to be a valid document in such case also the land which has been donated cannot be identified because there is no description at all except that as 5 bighas of land was being donated. Description of village, mouja or khata, khesra or boundary has not at all been given though the format of the “Danpatra” contains everything but the columns have been kept blank. Thus, in my considered opinion, the orders impugned are not at all tenable in the eye of law and, thus, both the orders impugned are quashed and set aside. It is held that the “Danpatra” contained in Annexure 1 is not fit to be confirmed.

Accordingly, this writ application stands allowed.

However, there would be no order as to costs.

(Dr. Ravi Ranjan, J)

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