

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11659 of 2014

=====

1. Devi Yadav son of Late Kuldeep Yadav.
2. Shankar Yadav son of Devi Yadav. Both are residents of Village - Sushil Nagar, P.O. - Singhaul, P.S. - Muffasil, Anchal, Sub Registry, Sub-Division and District - Begusarai. **Petitioners.**

Versus

1. Suresh Yadav.
2. Surbal Yadav. Both sons of Ram Dev Yadav residents of Village - Sushil Nagar, P.O. - Singhaul, P.S. - Muffasil, Anchal, Sub Registry, Sub-division and District - Begusarai. **Respondents.**

=====

Appearance :

For the Petitioner/s : Mr. Amresh Kr. Verma
For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

2 21-07-2015

Heard the learned counsel for the petitioners.

Calling in question the legal acceptability of the order of refusal by the court below to receive the document produced by the plaintiff-petitioner as prayed in the petition dated 21.10.2013, the present application under Article 227 of the Constitution of India has been filed.

The suit has been filed by the plaintiffs for declaration of title and possession over the land of Block No.7 as fully described in the schedule of the plaint. According to the case of the plaintiffs after the acquisition of land for establishing Brauni Refinery, the State Govt. made settlement of lands for rehabilitation with the villagers whose lands had been acquired and allotted the pieces of lands to them allotting Block No.(s). The

plaintiffs have accepted that the Block No.7 was allotted to one Brahmdeo Yadav. The claim of the plaintiffs over the said Block No.7 is based on a deed of disclaimer on payment of Rs.600/- executed by Brahmdeo Yadav in favour of the plaintiffs. The defendants resisted the assertions of the plaintiff by filing a contesting written statement.

The parties led their evidence and the suit was posted for argument. At that stage the plaintiffs filed the petition on 21.10.2013 praying for leave to bring on record the document which was the information supplied by BIADA under Right to Information Act to the plaintiffs, in order to establish their case that there was prevailing custom among the transferees of the settled blocks to mutually transfer the land among them. By the impugned order the learned court below has rejected the prayer of the plaintiff.

The learned counsel for the petitioners has submitted that a chance should be given to the plaintiff-petitioners to establish their case of prevailing custom by production of the document/information.

After perusal of the materials on record and considering the submissions, it is manifest that the document /information sought to be adduced in evidence by the plaintiff

does not relate to Block No.7 and even there is no reference of possession over any Block by the plaintiffs. The learned counsel for the petitioners has also failed to point out that the information/report is related to the Block No.7 which is the subject matter of the suit or to the plaintiffs in any manner. Moreover, there is no mention in the information/report of any prevailing custom among the settlees to transfer their settled land among themselves and the only fact which has been mentioned is that the persons named in the information/document are in possession over their respective Blocks by way of mutual transfer(sale). The suit which is of the year 2007 has now been posted for argument and the learned court below has also observed that the petition has been filed belatedly only to delay the disposal of the suit.

For the aforesaid reasons, this Court is not inclined to exercise the jurisdiction under Article 227 of the Constitution of India in favour of the petitioners.

Accordingly, the writ application is dismissed.

(V. Nath, J)

Nitesh/-

U			
---	--	--	--