

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12730 of 2014

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1. Diwakar Prasad Yadav @ Diwakar Yadav Son of Late Jibachh Yadav
2. Arvind Kumar Son of Diwakar Prasad Yadav Both resident of Village-
Mohanpur, P.S.- Pandaul, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Land Reforms Department, Government of Bihar, Patna.
3. The District Magistrate Madhubani.
4. The Deputy Collector, Land Reforms, Sadar, Madhubani.
5. The Circle Officer, Rajnagar, Madhubani
6. The North Bihar Power Distribution Company, through its Managing Director.
7. The Executive Electrical Engineer, North Bihar Power Distribution Company,
Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhinay Raj, Advocate.
For the State : Mr. Manoj Kumar Sinha, AC to SC 30
For the Company : Mr. Prakash Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 06-04-2015

Heard learned counsel for the petitioners, learned counsel
for the State as well as Bihar State Power Distribution Company
Ltd.

2. In the present writ petition petitioners are claiming their
right, title and possession over Khata No.565, Khesra No.202
having an area of 1 Bigha, 12 Kathas, 11 Dhurs situated at
Mauza Ranti, P.S. and Circle Rajnagar, district Madhubani and
that was settled with one Salim Darzi by Maharajdhiraj
Darbhanga the ex-landlord way back in the year 1922 and



accordingly office of the Maharajadhiraj Darbhanga started giving rent receipt to Salim Darzi, after vesting, Jamabandi was created in the name of Salim Darzi vide Jamabandi No.634. Keshav Khavas and others filed a Title Suit against Salim Darzi and Darbhanga Maharaj with regard to the disputed land vide Title Suit No.142 of 1924/159/1923 which was decreed in favour of Salim Darzi. Against the aforesaid judgment and decree Keshav Khawas and others filed an appeal vide Appeal No.31 of 1825 which was dismissed. Another suit was filed by Irshad Ali son of Salim Darzi against Sita Ram Khavas, which was decided in favour of Irshad Ali vide judgment and decree dated 15.12.1973.

3. Again a suit was filed by one Sindheshwar Choudhary, son of Sitaram Khavas and grandson of Keshav Khavas against Irshad Ali vide Title Suit No.12 of 1974 and the same was dismissed for default. Again a proceeding under Section 4(h) of the BLR Act was initiated vide Case No.20 of 1993-1994 which was disposed of on 2.5.1993 and later on same proceeding was reinitiated again disposed of on 28.6.1995. It has been claimed that the North Bihar Power Distribution Company Ltd. have started construction of Electricity Grid Station on the recommendation of the Circle Officer that created cause of

action to the petitioners and claim has been made that the State and its agency can not utilize the land without payment of proper compensation or alternatively claim has been made to return of land.

4. In the present case the State was directed to produce the original record and in pursuance thereof the original record has been placed before this Court for perusal. Original record shows that the land which was settled with Salim Darzi is quite different land and the same has nothing to do with land appertaining to Khata No.565, Khesra No.202, area 1 Bigha, 12 Kathas and 11 Dhurs correspondent to R.S. Khata No.1543, Plot No.1836. When the land was not settled with Salim Darzi the question of purchase of land, from his successor in interest does not arise. If he has purchased the land from a person having no right and title over the land, will not confer any right to the purchaser. In the present case situation is same. Record itself shows that petitioners have not purchased the land which was settled with Salim Darzi in turn Salim Darzi of his successor did not acquire any right to sell or transfer. The successor in interest has sold that land with which had no concern with the settlement.

5. This Court does not find any error in the action of the respondent. However, petitioners will be at liberty, if so advised,

they may approach proper civil court for declaration of their right, title and possession over the land in dispute. If such a suit is filed by the petitioners, the civil court without being influenced would decide the case in accordance with law.

6. With the aforesaid observation this writ petition is dismissed.

Vinay/-

(Shivaji Pandey, J)

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