

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8139 of 2012

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1. Uma Shankar Keshari @ Mohan Prasad Keshari Son Of Chamari Ram
 Resident Of Mohallah- Purani Godam, Tekari Road, Gaya, P.S.- Kotwali,
 District- Gaya (Bihar)

.... Petitioner/s

Versus

1. The State Of Bihar
 2. The Superintendent Of Survey, Gaya , District - Gaya (Bihar)
 3. The Assistant Superintendent Of Survey, Gaya, District- Gaya (Bihar)
 4. Rajendra Prasad Son Of Late Rameshwar Sahoo Resident Of Hate
 Godown, K.P. Road, Purani Godam, P.S.- Kotwali, District- Gaya (Bihar)
 5. Dalip Kumar Son Of Late Rameshwar Sahoo Resident Of Hate Godown,
 K.P. Road, Purani Godam, P.S.- Kotwali, District- Gaya (Bihar)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Prasad Singh

For the Respondent/s : Mr. Prahlad Kr. Bhagat Gp13

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**CORAM: HONOURABLE MR. JUSTICE SAMARENDRA
 PRATAP SINGH**
ORAL ORDER

4 14-07-2015 The petitioner seeks quashing of the order dated 31.1.2012
 passed by the Superintendent of Survey, Gaya (Respondent No.2)
 in Appeal No.668 of 1991 by which the appeal preferred by
 respondent Nos.4 and 5 has been allowed.

The present disputes relates to the land/house bearing
 Khata No.301, Plot No.155, M.S. Plot No.9667 Old Holding
 No.28 having an area of 75 Aar situated within the Gaya
 Municipal Area. The case of the petitioner is that the aforesaid
 land was purchased by his father through registered sale deed
 No.10874 dated 5.9.1964 from occupancy raiyat namely Ramhari

Das son of Mahant Guru Charan Das and since then they are in peaceful possession.

The petitioner states that at the time of Municipal Survey operation, the land in question was wrongly recorded in the name of Laxmi Narayan son of Late Rameshwar Sah. The petitioner filed an objection under section 9 of the Bihar & Orissa Municipal Act vide Objection Case No.20 of 1986 which was allowed by order dated 12.9.1990. Being aggrieved, the private respondents filed an appeal bearing Appeal no.668 of 1991 which was allowed by order dated 16.6.2000. Thereafter, the petitioner moved this Court vide C.W.J.C. No.1219 of 2001. As no reason was given in the appeal, the matter was remitted by this Court by order dated 20.1.2009. After remand, the appellate authority has decided the matter against the petitioner on the ground that the sale deed does not mention Khesra number of the plot. Apart from that, the other circumstances noted in the order is all in favour of the petitioner. The learned Collector in his order has noted that the respondents were tenant and they were evicted by the petitioner in Title Suit preferred by him.

I find that that appellate authority erred in allowing the appeal of the private respondents on the ground that the sale deed does mention the Khesra number of the plot.

In the result, this writ application is allowed and the impugned order dated 31.1.2012 passed by the Appellate Authority is set aside and the order dated 12.9.1990 passed by the learned trial court is upheld.

(Samarendra Pratap Singh, J)

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