

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7761 of 2005

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1. (i) Ramwali Devi wife of Late Hare Krishna Singh
(ii) Vikash Kumar son of Late Hare Krishna Singh
(iii) Rupam Kumari
(iv) Pushpam Kumari, both daughters of Hare Krishna Singh,
all residents of Harraikh, P.S.Begusarai Nagar, District Begusarai
 2. Hare Ram Singh son of Late Panchanand Singh
 3. Ram Laddu Devi wife of Late Panchanand Singh
all residents of Harraikh, Ward No.7, P.S. Nagar, Begusarai , District Begusarai
.... Petitioner/s

Versus

1. The State of Bihar through the Collector Begusarai
2. The Divisional Commissioner, Munger
3. The Collector Begusarai
4. The Additional Collector, Begusarai
5. The Sub Divisional Officer, Begusarai
6. (i) Ram Vichari Devi wife of Late Bhola Singh son of Late Jagarnath Singh
(ii) Arvind Singh
(iii) Rikesh Kumar, both sons of Late Jagarnath Singh
all residents of Harraikh, Ward No.3, P.S. Nagar, Begusarai,
District Begusarai

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Singh, Advocate
For the Respondent Nos. 1 to 5 : Mr. Ajit Kumar, SC 28

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT

Date: 23-03-2015

Heard the parties.

2. The petitioners have filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the order dated 7th August, 1991 (Annexure-2) passed in Case No. 17 of 1991 by the respondent Additional Collector, Begusarai, appellate order dated 5th March, 2002 (Annexure-3) passed in Appeal No. 26 of 1991 by the respondent District Collector, Begusarai as also the order dated 24th February, 2005 (Annexure-4) passed in Misc.Appeal No. 2 of 2002-03 by the



respondent Divisional Commissioner, Munger, whereby and whereunder the petitioners have been held to be encroachers with respect to the lands bearing plot no. 256 of Khata No. 2 and it has been held to be the lands acquired for the National Highway No. 31. After recording the aforesaid findings, direction has also been issued for removal of encroachment from the lands in question.

3. Learned counsel appearing on behalf of the petitioners submits that, in fact, lands of survey plot no. 256 appertaining to Khata No.12 measuring an area of 2 bighas 5 kathas situate at village Harraikh in the district of Begusarai were purchased by their ancestor, out of which only 56 decimals of lands were acquired for the purpose of National Highway No.31. It is the case of the petitioners that they have not encroached upon any portion of land which has been acquired for National Highway No.31 by the competent authority.

4. A counter affidavit has been filed on behalf of the respondent nos. 3 to 5 contesting the claims raised on behalf of the petitioners and supporting the impugned orders passed by different authorities, as indicated above, wherein the petitioners have been held to be encroachers over the lands acquired for National Highway No.31 and direction has been issued for demolition of the structure made by the petitioners over the same.

5. Indisputably, Title Suit No. 152 of 1996 has been filed by the petitioners or their ancestors before the Civil Court, Begusarai seeking declaration of their right and title over the lands in question as also for confirmation of their possession. It has further been prayed in the aforesaid title suit that the defendants be restrained from demolishing the house standing over the suit lands. It is also not in dispute that the aforesaid title suit is still pending in which the State of

Bihar and its functionaries including the District Collector as also the functionaries of the National Highway Authority are defendants.

6. In view of the fact that the petitioners as also the respondents are parties in the aforesaid Title Suit No. 152 of 1996 this Court is of the opinion that in stead of deciding the issues raised in the present proceeding with respect to the lands in question as also the validity and correction of the orders passed by the revenue authorities, the interest of justice shall be subserved if the parties are given liberty to raise all the issues in the aforesaid pending title suit with respect to their claims of right, title and possession over the said lands. It is ordered accordingly.

7. It is clarified that any finding recorded in the impugned orders passed by the revenue authorities shall not adversely influence/prejudice the case of the parties in the aforesaid pending civil suit. The aforesaid civil suit shall be decided strictly in accordance with law on the basis of evidences/materials produced by the parties. If occasion so arises, the petitioners shall be at liberty to file a petition for passing an order of injunction and if such a petition is filed, the same shall be considered and decided in accordance with law after giving an opportunity of hearing to all concerned.

8. According to the learned counsel for the petitioners, the plaintiffs have already closed their evidence in the aforesaid Title Suit No. 152 of 1996 and now the defendants are required to produce their evidence. Apparently, the title suit is pending since the year 1996. In the aforesaid background, the learned trial court, in seisin of the aforesaid Title Suit, is directed to take up the aforesaid title suit on priority basis and all endeavour should be made to dispose of the aforesaid title suit at an early date preferably within a maximum period of one year from the date of receipt/production of a copy of

this order. However before doing that, the defendants therein shall be granted reasonable time for producing their evidence in support of their case.

9. The interim order dated 15.02.2012 passed by a Bench of this Court stands vacated.

10. The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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