

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5313 of 2002

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1. Shanti Devi, wife of late Dr. Baijnath Prasad Singh
2. Anjani Kumari, daughter of late Dr. Baijnath Prasad Singh
3. Mridula Kumari, daughter of Late Dr. Baijnath Prasad Singh, resident of
Baijnath Marg, Ramna Road, P.S. Civil Lines, District Gaya
..... Petitioner/s

Versus

1. The State of Bihar
2. Superintendent of Survey, Gaya
3. Assistant Superintendent of Survey, Gaya Respondent Ist Set.
4. Manorama Devi, wife of Narbadeshwar Pd. Singh, resident of Mohalla Tutwari,
Ganga Mahal, P.S. Kotwali, District Gaya
5. Rakesh Kumar, son of Subodh Kumar Singh
6. Nagina Devi, wife of Sakaldeo Singh
7. Lal Muni Devi, daughter of Binod Kumar Singh
8. Jai Mangal Prasad Singh, son of Gangeshwar Prasad Singh, all residents of
Mohalla Ramna Road, P.S. Civil Lines, District Gaya Respondent 2nd Set.
..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Prasad Singh, Sr. Advocate.
Mr. Sukumar Sinha, Sr. Advocate.
Mr. Abinash Kumar
Mr. Rajeev Kumar Singh, Advocates

For the Respondent No.4 : Mr. Ajay, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 01-04-2015

Heard learned counsel for the petitioners and learned
counsel for the State.

In the present writ petition, petitioners are challenging
the order dated 12.10.2001 passed by the Superintendent of
Survey, Gaya (respondent no.2) in Appeal Case No.476 of 1990
under Section 15(1) of the Bihar and Orissa Municipal Survey
Act by which he has allowed the appeal filed by Manorama
Devi and set aside the order dated 24.5.1990 passed in Objection
Case No. 58 of 1987 and 37 of 1987 by the Assistant

Superintendent of Survey, Gaya.



It appears that parties are in dispute with respect to Plot Nos. 104 and 105. They are claiming their respective rights over the same. An objection case was instituted vide Objection Case No.58 of 1987 which was decided on 24.5.1990 in favour of Manorama Devi. Baijnath Prasad Singh was not satisfied with the order, which he challenged in appeal before the Administrator in Mutation Case No.333 of 1996 and the appellate court has set aside the order passed in favour of Manorama Dvi which was challenged before this Court by Manorama Devi vide C.W.J.C. No.10260 of 1998 and this Court vide order dated 19.8.1999 permitted Manorama Devi to withdraw the aforesaid writ petition to enable her to approach the competent civil court.

It appears that after the order of this Court the impugned order has been passed in favour of Manorama Devi (respondent no.4) which is under challenge.

Learned counsel for the petitioners submits that once the appeal was tested before this Court and liberty was granted to Manorama Devi to approach the civil court, it does not stand to reason that appellate authority with regard to same matter will adjudicate the same between the same party and would pass the order and as such the order passed by the appellate court is not

sustainable in law.

Learned counsel for the petitioner is correct that the order passed by the appellate court was challenged before this Court and this Court directed adjudication by the competent civil court, there was no justification to the appellate court to adjudicate the dispute between the parties again and passed the impugned order.

In this view of the matter, order dated 12.10.2001 is hereby quashed. However, it is well known principle that any entry made in the revenue record does not confer any right or extinguish the same. Any entry made in the revenue record would not create advantage or disadvantage of either party. The parties will be at liberty to approach the civil court, if already not approached. This Court is not giving any opinion on the merit of the case.

With the aforesaid observation this writ petition is allowed.

(Shivaji Pandey, J)

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