

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14300 of 2011

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Shanti Devi, W/O Late Dr. Baijnath Prasad Singh, R/O Mohalla- Ramna
Road, P.S.- Civil Lines, Distt.- Gaya

.... Petitioner/s

Versus

1. The State Of Bihar
 2. Chief Executive Officer, Municipality, Gaya
 3. District Magistrate cum Collector, Gaya
 4. Assistant Survey Superintendent, Gaya
 5. Superintendent of Survey, Gaya
 6. Administrator, Municipality, Gaya
 7. Manorma Devi, Widow Of Narbadeshwar Prasad Singh, R/O Mohalla-
Tutwari, Ganga Mahal, Amama Rajya Kothi, P.S.-Kotwali, Distt.- Gaya
 8. Kamala Devi, W/O Subodh Kumar Singh
 9. Nagina Devi, W/O Sakaldeo Singh
 10. Lalmani Devi, D/O Vinod Kumar Singh
 11. Jai Mangal Prasad Singh, S/O Gangeshwar Prasad Singh
- All R/O Mohalla- Ramna Road, P.S.- Civil Lines, Distt.- Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ashutosh Singh
For the Respondent nos.1&3to5	:	Mr. Kaushal Kumar Jha, AAG-14
For the Respondent nos.2&6	:	Mr. Ravindra Priyadarshi

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 04-09-2015 Heard the parties.

The petitioner is aggrieved by the order dated 12.10.2001 (Annexure-6) passed in Appeal Case No.476 of 1990 by the respondent Superintendent of Survey, Gaya in exercise of his powers under Section 15(1) of the Municipal Survey Act, whereby the appeal preferred on behalf of the respondent no.7 has been allowed after setting aside the order dated 24.05.1990 (Annexure-1) passed by the Assistant Superintendent of Survey, Gaya and a direction has been issued for entering the name of the respondent no.7 in the demand register with respect to the lands in question as also for mutating the lands in question in her favour.

The present writ petition suffers from delay and laches. Evidently, the impugned order was passed on 12.10.2001 and the present writ petition was filed on 26.08.2011 i.e. after delay of almost ten years. In the writ petition as also supplementary affidavit, no valid explanation has been furnished for approaching this Court after such a long delay.

Learned counsel appearing on behalf of the petitioner, at this stage, submits that originally the matter was being contested by the husband of the petitioner, who was murdered on 14th July, 2006 and, therefore, the present writ application has been filed in the year, 2011. Even after taking into consideration that aspect, delay remains unexplained. As per own pleadings of the writ petitioner, the husband of the petitioner had contested the aforesaid appeal. The order was passed on 12.10.2001. Thereafter, he was still surviving for almost five years, but he did not chose to challenge the validity and correctness of the impugned appellate order and it appears that he, in fact, had accepted the finality of the impugned appellate order. Even after death of the husband of the petitioner, there has been delay of more than five years.

Furthermore, from the materials available on the record, this Court finds that the dispute between the petitioner and the private respondents regarding the lands in question is essentially a dispute of right and title, which can appropriately be decided by a Civil Court of competent jurisdiction on the basis of the materials/evidence produced by the parties.

For the reasons recorded above, the present writ petition is dismissed, but with a liberty to the petitioner to approach the Civil Court of competent jurisdiction for grant of

appropriate relief(s) with respect to the lands under dispute.

If such a civil suit is brought by the petitioner before a competent Civil Court, after impleading all the necessary parties within a period of three months from today, then the same shall be decided on its own merits, without being prejudiced by the rejection of the present writ petition.

The parties shall be at liberty to raise all the issues of facts and law regarding the lands in question before the Civil Court, which may be available to them.

The writ petition stands finally dismissed, but with the observations and directions made above.

(Birendra Prasad Verma, J)

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