

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15230 of 2015

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Nagendra Kumar Chaudhary, Son of Vishnukant Chaudhary, Resident of Padwaria, Anchal - Banka P.S. + District - Banka

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administrative Department, Government of Bihar, Patna
 2. The District Magistrate, Gopalganj
 3. The Additional Collector, Gopalganj
 4. Baban Raut Son of Nagina Raut
 5. Santu Prasad Son of Baban Raut
 6. Mahesh Prasad Son of Baban Raut
- All 4 to 6 are resident of village - Bharkuiyan, P.O. Barauli, District - Gopalganj
7. Sageeta Devi Wife of Kailash Prasad Resident of village - Kotwa, P.O. + P.S. Barauli, District - Gopalganj
 8. Suresh Sharma Son of Haricharan Sharma Resident of village - Batardeh, P.O. + P.S. Barauli, District - Gopalganj
 9. Baboolal Chaudhary Son of Late Nathooni Choudhary Resident of village - Kotwa, P.S. Barauli, District - Gopalganj
 10. Dhurup Choudhary Son of Nagina Chaudhary
 11. Hari Kishun Choudhary Son of Nagina Choudhary
 12. Rintu Singh Son of Kishore Singh
- Respondent Nos. 10 to 12 are Resident of village + P.O. Sonbarsha, P.S. Barauli, District - Gopalganj
13. Dinesh Singh Son of Ramchandra Singh Resident of village - Dharwa, P.O. + P.S. Barauli, District - Gopalganj
 14. Baban Singh Son of Late Mahanth Singh Resident of village - Kalkalahan, P.O. + P.S. Barauli, District - Gopalganj
 15. Shail Devi Wife of Kishore Resident of village - Baghwar, P.O. Salempur, P.S. Sidhwaliya, District - Gopalganj
 16. Urmila Devi Wife of Nagendra Singh
 17. Baby Devi Wife of Ajai Singh
- Respondent Nos. 16 & 17 are Resident of village P.O. Pipara, P.S. Barauli, District - Gopalganj
18. Binay Kumar Patel Son of Dr. Arun Kumar Resident of village - Poiparahiya, P.O. + P.S. Barauli, District - Gopalganj
 19. Phoolkali Devi Wife of Rajendra Prasad Resident of village +P.O. Kamalpur, P.S. Barauli, District - Gopalganj
 20. Ramchandra Choudhary Son of Jhagaru Choudhary Resident of village - Koerihata, P.O. + P.S. Barauli, District - Gopalganj
 21. Abdul Quayoom Son of Late Mohammad Siddique Resident of village + P.O. + P.S. Barauli, District - Gopalganj
 22. Ranjan Kumar Gupta Son of Late Ram Ayodheya Prasad Resident of village + P.O. Salempur, P.S. Sidhwaliya, District - Gopalganj
 23. Sanjai Kumar Mishra Son of Rajendra Mishra
 24. Sanjeev Kumar Mishra Son of Rajendra Mishra Respondent No. 23 & 24 are Resident of village - Purani Quadari, Uttrawari Dwar, Devi Chowk, Bettia, P.S. Bettia Town, District - West Champaran

25. Satrudhan Singh Son of Kailash Singh Resident of village - Kalayanpur Madhubani - Tola Jagiraha, P.O. Aichabar Pipara, P.S. Sidhwaliya, District - Gopalganj
26. Ajeet Kumar Singh Son of Bhoop Narain Singh Resident of village Ratansarai, P.O. + P.S. Barauli, District - Gopalganj
27. Bhanu Prakash Jaiswal Son of Om Prakash Jaiswal Resident of village + P.O. + P.S. Barauli, District - Gopalganj
28. Ram Kumar Singh Son of Nagendra Kishore Prasad Singh Resident of village + P.O. Dewapur, P.S. Barauli, District - Gopalganj
29. M - Naeim Son of Late Mahbul Miyan Resident of village + P.O. Nawada, P.S. Barauli, District - Gopalganj
30. Md, Hasnain
31. Ali Akbar
32. Khursed Alam
- Respondents Nos. 30 to 32 are Sons of Md. Mokim Resident of village + P.O. + P.S. Barauli, District - Gopalganj
33. Anwarul Koraisi Son of Late M - Ashin Miyan Resident of village - Manjha, Purani Bazar, P.O. + P.S. Manjha, District - Gopalganj
34. Narendra Kunwar Son of Late Indrasan Kuwar Resident of village - Lohijra, P.S. Sidhwaliya, District - Gopalganj
35. Adalat Singh Son of Late Sobha Singh Resident of village - Rampur, P.O. Sadauwa, P.S. Sidhwaliya, District - Gopalganj
36. Laki Thakur Son of Late Banka Thakur Resident of village - Pyarepur, P.S. Barauli, District - Gopalganj
37. Radhika Devi Wife of Harihar Sah Resident of village + P.O. + P.S. Barauli, District - Gopalganj
38. Surya Prasad Son of Jadoo Sah
39. Sheo Shankar Sah Son of Narsingh Sah
40. Dinesh Prasad Son of Mahadeo Prasad
- Respondents Nos. 38 to 40 are Resident of village + P.O. + P.S. Barauli, District - Gopalganj
41. Kamal Sharma Son of Late Harihar Sharma
42. Mewati Lal Sharma Son of Late Ram Gulam Sharma
43. Baboolal Sharma, Son of Late Ram Gulam Sharma
- Respondents Nos. 41 to 43 are Resident of village + P.O. + P.S. Barauli, District - Gopalganj

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar

For the Respondent nos.1to3 : Mr. Amit Kumar Anand, AC to GP-15

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 27-10-2015

Heard learned counsel for the petitioner and learned
AC to GP-15 appearing on behalf of the respondent nos.1 to 3.

The petitioner has filed the present writ petition

under Article 226 of the Constitution of India assailing the validity and correctness of the order dated 18.05.2015 passed in Jamabandi Cancellation Case No.2 of 2015-16 (Annexure-4), whereby the order of status quo has been passed regarding the lands in question purportedly by the respondent Additional Collector, Gopalganj.

Learned counsel appearing on behalf of the petitioner submits that from the plain reading of the aforesaid order dated 18.05.2015, it is apparent that the Presiding Officer was otherwise busy in some administrative works and was not holding the court, yet the aforesaid order of status quo has been passed by his subordinate, which cannot be sustained in law.

Learned State counsel appearing on behalf of the respondent nos.1 to 3, on the other hand, has submitted that the petitioner is not a party in the aforesaid Jamabandi Cancellation Case No.2 of 2015-16 and he simply claims to be a tenant of one Surya Prasad through a document, who is one of the opposite parties in that case. According to him, at the behest of the petitioner, the present writ petition is not maintainable.

After having heard the parties and taking into consideration the materials available on the record, this Court finds that admittedly the petitioner is not a party in the aforesaid Jamabandi Cancellation Case No.2 of 2015-16. The impugned order of status quo shall bind only the parties of that case. However, if the petitioner claims to be a tenant of one of the opposite parties and the impugned order of status quo adversely affects his right over the lands in question, then, in the considered opinion of this Court, the petitioner must approach the respondent Additional Collector, Gopalganj, at the first instance, with an appropriate petition for impleading him as a party in that case. The

petitioner can also file an appropriate petition before the respondent Additional Collector, Gopalganj either for modifying or recalling the aforesaid order of status quo passed on 18.05.2015, but this can be done only after giving an opportunity of hearing to all concerned and after ascertaining the right of the parties regarding the lands in question.

In above view of the matter, the present writ petition is disposed of with a liberty to the petitioner to approach the respondent Additional Collector, Gopalganj for grant of appropriate relief(s) in the aforesaid Jamabandi Cancellation Case No.2 of 2015-16.

It goes without saying that, if such petition is filed on behalf of the petitioner, the same shall be considered and decided in accordance with law expeditiously preferably within a period of 15 days from the date of filing of the petition by the petitioner.

(Birendra Prasad Verma, J)

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