

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1806 of 2009

Prakash Kumar Khetan, son of Sri Shiv Shankar Khetan, resident of Jamalpur, P.S. Gogri, District- Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Khagaria, at and P.S.- Khagaria, District- Khagaria.
3. The S.D.O., Khagaria, at and P.S. Khagaria, District- Khagaria, District- Khagaria.
4. The Anchal Adhikari, Beldaur, District- Khagaria.
5. Chandra Kishore Khetan, son of Late Prabhu Dayal Khetan, resident of Gogri Jamalpur, P.S. Gogri, District Khagaria.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Lala Sachindra Kumar
Mr. Ashok Kr. Sinha No.2
For the Respondent/s : Mr. Subhash Pd. Singh, GA-7
Mr. Dilip Kumar, AC to GA-7

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 12-08-2015

Heard the parties.

2. The petitioner is aggrieved by the order dated 23.09.2008 (Annexure-10) passed in Miscellaneous Case No. 01/2008-2009 by the respondent District Collector, Khagaria, whereby he has reversed the order and direction dated 21.06.2001 (Annexure-3) passed in Miscellaneous Case No. 1/2001-2002 by the respondent Anchal Adhikari, Beldaur and a direction has been issued for restoration of Jamabandi No. 480 in favour of the respondent no.5.

3. After having heard the parties and on examination of the materials available on record, this Court finds that the petitioner vis- a -vis respondent no.5 both claim to be descendants of their common ancestor namely, Pannalal Khetan. According to the writ petitioner, he is natural grand son of aforesaid Pannalal Khetan. However,

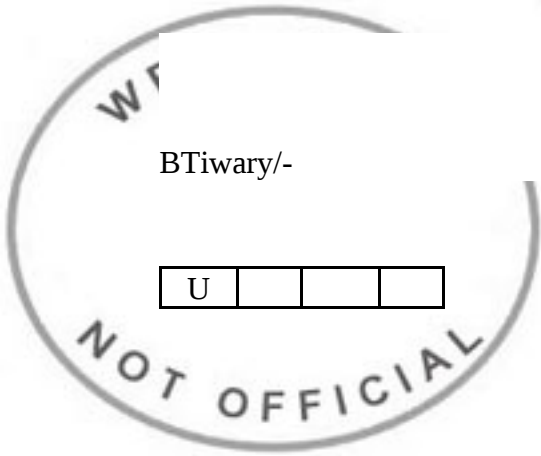
according to the respondent no.5, the aforesaid Pannalal Khetan had no issue and, therefore, he adopted Prabhu Dayal Khetan as his son, who inherited his property. The respondent no.5 claims to be the son of aforesaid Prabhu Dayal Khetan.

4. From the facts noticed above, it is apparent that the dispute between the petitioner vis-a-vis the respondent no.5 with respect to the lands under dispute is essentially that of title. Unless and until the title of the parties is decided conclusively, the dispute of possession shall keep on vacillating and, dispute between the parties cannot be resolved once and for all. Apparently, the revenue authorities cannot decide the question of title.

5. In above view of the matter and taking into consideration the factual matrixes of the present case, this Court is of the considered opinion that the aggrieved party should approach the civil court of competent jurisdiction for getting his right, title and possession decided in accordance with law on the basis of the evidence/ materials produced by the parties. If the petitioner, being aggrieved by the impugned order, files a civil suit before the civil court of competent jurisdiction within a reasonable period of time for grant of appropriate relief with respect to the lands under dispute, after impleading all the necessary parties including the respondent no. 5, then the same shall be decided strictly in accordance with law on the basis of the evidence/ materials produced by the parties, but without being prejudiced/ influenced by the findings recorded by the revenue authorities either in favour of the petitioner or respondent no. 5 in the impugned order passed by the respondent District Collector or the order passed by the respondent Anchal Adhikari regarding mutation of land or creation of Jamabandi.

6. The writ petition stands finally disposed of with the

observations and directions made above.



(Birendra Prasad Verma, J)