

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7582 of 1995

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1. Mauzi Muriyari, son of Late Panchu Muriyari.
2. Prakash Muriyari,
3. Pratim Muriyari,
4. Artim Muriyari,
All sons of Late Manni alias Muni Muriyari.
All resident of village-Raghunathpur (Tola-Mojaha), P.O.-Raghunathpur, P.S.
Bhargama, District-Araria. Petitioners.

Versus

1. The State of Bihar.
2. The S.D.O., Forbesganj, P.S.-Forbesganj, District-Araria.
3. The Anchal Adhikari Bhargama, P.S.-Bhargama, District-Araria.
4. Gulab Yadav,
5. Anmol Yadav,
Both sons of Bhubaneshwari Yadav.
6. Bijendra Yadav,
7. Gajendra Yadav,
Both sons of Maheshwari Yadav. Respondents.

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Appearance :

For the Petitioners : Sri Narayan Singh, Sr. Adv.

For the Respondents : Sri Manish Dhari Singh, AC to GA-10.

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
ORAL JUDGMENT

Date: 21-05-2015

Heard Sri Narayan Singh, learned senior counsel in support of the writ petition and learned counsel for the State. Private-respondents are not present even though they have been noticed.

By this writ petition, the petitioner challenges the order dated 07.10.1994 passed by the Sub-divisional Officer, Forbesganj, District-Araria whereby he has set aside the order of the Anchal Adhikari, Bhargama by which the Anchal Adhikari passed order in terms of Section-48 of the Bihar Tenancy Act,

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1885 (hereinafter in short B.T. Act), declaring the petitioner a occupancy raiyat.

The case of the petitioner is that they were in occupation of 3.15 acres of land as Sikmidar which finds mention in revisional survey khatian since 1952. In 1992, they filed an application in terms of Section-48 D of the B.T. Act for being declared as occupancy raiyat which was allowed by the Anchal Adhikari and has been set aside by the Sub-divisional Officer in appeal filed by the private-respondents.

Sri Narayan Singh, learned senior counsel appearing in support of the writ petition submits that the finding of fact recorded by the Sub-divisional Officer is incorrect and the legal inference drawn by him is also not sustainable.

I have gone through the order of the Sub-divisional Officer and find no infirmity in that order. Petitioner does not dispute that there had been a title suit as far back as in 1961 in which right of the petitioners was negated. It is only in the year 1993 that the petitioner filed a M.J.C. application for recalling and setting aside the ex parte judgment and decree which also stood dismissed. Petitioner has admitted that out of the said land of which they claimed occupancy raiyat they had agreed to purchase from the respondents 0.78 acres of land through registered deed

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but the registered deed has not also been given to them as yet. These are two crucial facts. The first clearly shows that the petitioners had suffered an adverse order by the competent Civil Court which they did not challenge. The second is that if they claimed that they had become occupancy raiyat of the entire land admeasuring 3.15 acres then why they agreed to purchase part of the said land i.e. 0.78 acres in 1995 being occupancy raiyat as claimed by them. There was no question of purchasing from another raiyat the said land. This clearly shows that the petitioner was aware that they lacked the status of the occupancy status and merely because of a stray entry in the revisional survey they had put forward their right. Thus, I find no infirmity in the order of the Sub-divisional Officer.

Accordingly, the writ application is dismissed.

(Navaniti Prasad Singh, J.)

Trivedi/NAFR

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