

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11574 of 1992

Mummun Pandey sonof Mukteshwar Padney of village Churamanpur, P.S. Buxar
Industrial, district, Buxar.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector of Buxar, district, Buxar
3. The Sub-divisional Magistrate, Buxar, P.S. Buxar, District, Buxar
4. The Deputy Collector Incharge land Reforms, Buxar P.S. Buxar.
5. The Anchal Adhikari, Itarhi, P.S.-Itarhi, District Buxar.
6. Sri Ram Narain son of Kumar Ram
7. murali Ram sonof Deoraj Ram
8. Algu Paswan son of Sumer Paswan
9. Markandeya Ram son of Hardwar Ram
10. Mohan Paswan son of Musan Pawan
11. Shri Bhagwan Paswan son of Lallan Paswan
12. Bindhyachal Ram son of Lalmohar Ram
13. Shyam Bihari Ram son of Sheopujan Ram
14. Brij Bihari Ram son of Sheopujan Ram
15. Brij Bihari Ram son of Sheopujan Ram
16. Dwarika Ram son of Sumer Paswan
17. Ramakant Paswan son of Prasadhan Paswan
18. Dhewar Ram son of Deomuni Ram
19. Sunder Paswan son of Deomuni Ram
20. Shri Ram Paswan son of Ramadhar Paswan
21. Bahadur Pawan son of Ramadhar Paswan
22. Ram Bilas Nonia son of Basudeo Nonia
23. Ram Awatar Nonia son of Mahadeo Nonia
24. Ashok Nonia son of Ram Bachan Nonia
25. Sipahi Nonia son of Ram Bachan Nonia
26. Shri Niwas Nonia son of Ram Bachan Nonia
27. Umapati Nonia son of Ramraj Nonia
28. Santosh Nonia son of Sukhbilas Nonia
29. Ramdeo Nonia son of Sukhbilas Nonia
30. Ram Ashish Nonia son of Sukhbilas Nonia
31. Bharat Nonia son of Ugenath Nonia
32. Trilokinath Nonia son of Ugenath Nonia
33. Shatrughan Nonia son of Ugenath Nonia
34. Lakshman Nonia son of Ugenath Nonia
35. Chandrama Nonia son of Ram Bachchan Nonia
36. Raghupati Nonia son of Rambriksha Nonia
37. Hare Ram Nonia son of Rambriksha Nonia

All residents of village Kadipur Kala, P.S. Buxar, District-Buxar.

.... Respondent/s

Appearance :

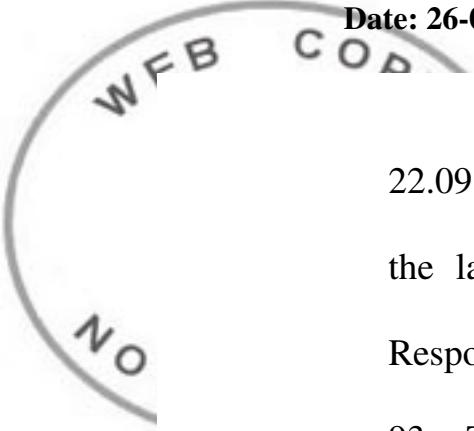
For the Petitioner/s : Mr. Hussain Majid

For the State : Mr.Praveen Kumar, A.C. to G.P.-27

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL JUDGMENT

Date: 26-03-2015



1. This is an application seeking quashing of the order dated 22.09.1992 passed by the Deputy Collector, Land Reforms, whereby the lands in question are sought to be settled in favour of the Respondents No. 6 to 37 in Harijan Bandobasti Case No. 01 of 1992-93. The petitioner also seeks quashing of the *pruchas* issued with respect to land in question in favour of the said Respondents No. 6 to 37 in the said Harijan Bandobasti Case No. 01 of 1992-93 and restraining the respondents from interfering with the petitioner's possession over the lands.

2. The original appellant Vikramaditya Pandey died during the pendency of this writ application and has been substituted by his son Munmun Pandey. Notices were issued to Respondents No. 6 to 37 in this case and though they entered appearance by way of Vakalatnama, no counter affidavit has been filed on their behalf. This is unfortunate that no counter affidavit has been filed on behalf of the State-Respondents despite passage of nearly thirteen years of filing of this application. This Court while admitting this writ application on 21.05.1993 passed an interim order to the effect that the petitioner shall not be dispossessed pursuant to the impugned order dated 22.09.1992 as contained in Annexure-5 to the writ

application.

3. In view of the above, the averments made in the counter affidavit stand uncontroverted. This application is accordingly being considered on the basis of uncontroverted averments made in the writ application.

4. The lands in question have been described as Revisional Survey Plot No. 19 of Khata No. 91 measuring 4.1 Acres 91 decimal corresponding to R.S. Khata No. 124 Plot No. 33 with the same area. It is the petitioner's case that the land in question is petitioner's Raiyati land which was carved out of Cadestral Survey Plot No. 29, C.S. No. 91 recorded in Cadestral Survey Record of Rights, in the name of the petitioner's ancestors Bigna Kuer. It was wrongly recorded in the Revisional Survey Record of Rights in the tenant's column as "Anabad Bihar Sarkar". The petitioner brought a Title Suit No. 343 of 1975 for declaration of title and correction of wrong entry in the Revisional Survey Record of Rights. The suit was decreed by the judgment and decree dated 22.08.1978 passed by the court of learned 2nd Munsif, Buxar. The State of Bihar, aggrieved by the said judgment and decree dated 22.08.1978, preferred Title Appeal No. 67 of 1978. It was dismissed by the judgment and decree dated 10.10.1983 passed in Title Appeal No. 67 of 1978 by learned Sub-Judge, Buxar.



5. Judgments and decrees passed by the Trial Court in Title Suit No. 343 of 1975 and that of the Appellate Court for Title Appeal No. 67 of 1978 have been brought on record by way of Annexures 2 and 3 of the writ application respectively. It has been asserted in the writ application that the State of Bihar did not prefer any second appeal against the judgment and decree passed by the first Appellate Court.

6. It is the case of the petitioner that the concerned Halka Karamchari and Circle Inspector, initiated a totally wrong proposal on the basis of an illegal revisional survey entry relating to land in question, whereupon the D.C.L.R. by an order dated 22.09.1992 directed settlement of land in question in favour of the Respondents No. 6 to 37. The said order of the Deputy Collector, Land Reforms dated 22.09.1992 was approved by the Sub-divisional Magistrate by his order dated 28.09.1992.

7. It is the plea of the petitioner that there being decree in their favour as regards their title over the land in question granted by a Civil Court of competent jurisdiction and affirmed by the Appellate Court on the basis of a Title Suit between the petitioner and the State of Bihar, the State of Bihar could not have proceeded against the findings arrived at by the Trial Court as well as the Appellate Court, by treating the land to belonging to State Government as "Anabad

Bihar Sarkar”.

8. Learned counsel appearing on behalf of the petitioner has submitted that the D.C.L.R., passed a completely illegal and arbitrary order dated 22.09.1992 directing for settlement of land in question in favour of the Respondents No. 6 to 37. He has submitted, referring to paragraph No. 13 of the writ application that the Sub-divisional Magistrate, Buxar did not apply his mind while approving the order of the D.C.L.R. dated 22.09.1992 and has submitted that the Sub-divisional Magistrate, Buxar did not pass any separate order of approval of settlement of land in question made by the Deputy Collector, Land Reforms. It has been stated that an appeal was preferred before the Additional Collector, Buxar against the order of the settlement dated 22.09.1992, which remedy was certainly not statutory in nature.

9. Learned counsel for the petitioner has produced before me a certified copy of the order dated 07.06.1994 passed by the Additional Collector, Buxar disposing of the said Appeal No. 53/92-93 observing that the said appeal could not be disposed of during the pendency of present C.W.J.C. No. 11574 of 1992.

10. On the basis of the uncontroverted facts, it is apparent that there is decree in favour of the petitioner that he has right, title and possession over the land described as R.S. Plot No. 19 of Khata

No. 124 equivalent to P.S. Khata No. 124 Plot No. 33 admeasuring area 4.91 acres. There is finding by the Trial Court in Title Suit No. 343 of 1975 by learned second Munsif, Buxar in his judgment and decree dated 22.08.1978 that the said land was wrongly recorded as “Anabad Bihar Sarkar” in the Revisional Survey Record of Rights. There being decree to this effect with respect to the land, the Deputy Collector, Land Reforms, Buxar did not have any authority to settle such lands in favour of Respondents No. 6 to 37. As has been noted above, there is no denial of the facts averred in the writ application.

11. The order dated 22.09.1992 passed by the Deputy Collector, Land Reforms, in Harijan Bandobasti Case No. 01 of 1992-93 is accordingly set aside. The *Purchas* if granted to Respondents No. 6 to 37 on the basis of such order, shall be treated to have been cancelled by virtue of the present order.

12. This application is allowed accordingly.

13. No order as to costs.

(Chakradhari Sharan Singh, J.)

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