

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20444 of 2010

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Shahabad Parish Society, through its Secretary Fr. Oswald Saldanha, SJ,
Parish Priest, Catholic Church, Katira, Ara, Bhojpur Distt., Bihar-802301

.... Petitioner/s

Versus

1. The State of Bihar through Secretary, Department of Revenue and Land Reforms, Govt. of Bihar, Patna
2. Raghunath Rai S/O Late Tengari Rai R/O Pakri, Ward No. 12, P.S.- Nawada Ara, Distt.- Bhojpur, Bihar-802301
3. Jagjeetan Rai S/O Late Tengari Rai R/O Pakri, Ward No. 12, P.S.- Nawada Ara, Distt.- Bhojpur, Bihar-802301
4. Measurement Superintendent Municipal Corporation, Bhojpur, Distt.- Ara

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. K.M.Joseph

For the Respondent nos.1&4: Mr. Mahtab Alam, AC to SC-3

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 26-03-2015 Heard learned counsel appearing on behalf of the petitioner as also learned AC to SC-3 appearing on behalf of the respondent nos.1 and 4 at some length. However, none appears on behalf of the respondent nos.2 & 3, though they have entered appearance through their learned counsel, whose names are printed in the daily cause list.

The petitioner has filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the original order dated 07.04.1988 passed in Objection Case No.439 of 1986 by the Assistant Superintendent of Municipal Survey, Bhojpur at Ara (Annexure-7 with the supplementary affidavit) as also the appellate order dated 18.02.2010 passed in Appeal No.133 of 1988 by the Superintendent of Municipal Survey, Bhojpur at Ara annexed with the main writ petition, but not marked as annexure. Both the original order and the appellate order have been passed under the

provisions of Bihar and Orissa Municipal Survey Act, 1920.

While assailing the validity and correctness of the aforesaid two orders, the learned counsel appearing on behalf of the petitioner has raised various issues of facts with respect to lands under dispute, fully detailed in the writ petition. He has also pointed out that with respect to lands under dispute, a Title Suit No.526 of 2001 is pending in the court of learned Sub-Judge-1st, Ara (Bhojpur) in which the petitioner is also one of the defendants.

Since the learned counsel appearing on behalf of the petitioner is assailing the correctness of the original order as also the appellate order by raising only the issues of facts, therefore, this Court is not inclined to interfere with the impugned orders. However, a liberty is granted to the petitioner to get all the issues of facts with respect to lands in question decided in the aforesaid pending Title Suit No.526 of 2001 or the petitioner may file a fresh civil suit for grant of appropriate reliefs, after impleading all the necessary parties.

It is clarified that the pending Title Suit No.526 of 2001 between the parties, or a fresh title suit brought by the petitioner with respect to the lands under dispute, after impleading all the necessary parties, shall be decided by the civil court of competent jurisdiction on the basis of the materials/evidence produced by the parties, without being prejudiced or influenced by the findings recorded by the revenue authorities in the impugned orders.

The writ petition stands finally disposed of with the observations and directions made above.

Arvind/-

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(Birendra Prasad Verma, J)