

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6451 of 1995

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1. Shila Nath Jha
 2. Kamesh Jha, both sons of Late Lakshmi Jha, resident of Village Harlochanpur Gopalpur, PS and Anchal Jandaha, District Vaishali

.... Petitioners

Versus

1. The Joint Director, Consolidation, Muzaffarpur
 2. Mostt.Chandrabati Devi, widow of late Achhai Lal Sah
 3. Chulhai Sah
 4. Sant Lal Sah
- Both sons of late Achhai Lal Sah,
Respondents 2, 3 and 4 are residents of Village Harlochanpur Gopalpur, PS and Anchal Jandaha, District Vaishali

.... Respondents

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Appearance :

For the Petitioner/s : Mr. N. C. Verma & Mr. N. Verma
For the State : Mr. M. Nasrul Hoda Khan, SC 18
Mr. Md. Irshad, AC to SC 18
For private Respondent : Mr. Nirmal Kumar Shrivastava

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 30-04-2015

Heard learned Counsel for the petitioner, learned Counsel for the private respondents and the learned Counsel for the State respondent.

2. The writ petitioner (now deceased and substituted by his heirs) has questioned the legality and validity of the order passed by the Joint Director, Consolidation, on 2.3.1994 rejecting the Revision Case No. 3412 of 1988.

3. From the records as well as consideration of the submissions on behalf of the parties, it is not in dispute that the claim of the petitioner is over 6 dhurs of land of C.S. Plot No. 66. It is also not in dispute that out of this C.S. Plot No. 66, Revisional Survey Plot No. 558 has been carved out. The petitioner claims that he is entitled to the said

area of 6 dhurs on the basis of his purchase by registered sale deed dated 25.8.1967. The petitioner has also claimed to be in possession of the entire area purchased by him as owner thereof.

4. It is apparent that the petitioner had not taken any steps during the initial stage of the consolidation proceeding and the petition was filed by the petitioner directly, invoking the jurisdiction under Section 35 of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956. The private respondents appeared before the Joint Director, Consolidation, before whom the Revision Application No. 3412 of 1988 was instituted on the basis of the petition filed by the petitioner. The private respondents contested the claim of the petitioner and even questioned the validity of the sale deed in his favour. It was also asserted by the private respondents that they have purchased the disputed Plot No. 558 after taking permission from the Consolidation Officer in accordance with law.

5. The respondent Joint Director heard the parties and thereafter has come to the conclusion that the petitioner has failed to prove his claim over the disputed land. The revision application was accordingly dismissed.

6. In the writ petition before this Court, the petitioner has not brought on record the necessary material documents to corroborate and establish his claim though in para 18 of the writ application the petitioner has enumerated several documents in support of his claim and has also asserted that these documents were filed before the respondent Joint Director, but surprisingly those documents or copies thereof have not been produced before this Court for perusal. Even otherwise also, it



is admitted fact that R.S. Plot No. 558 area 6 decimals has been purchased by the private respondents and thereafter they have also got their names mutated and have been paying rent and getting rent receipts accordingly. The said R.S. Plot no. 558 has been recorded in the name of vendor of the private respondents. The petitioner claims to have title and possession over 6 dhurs of land out of the said plot on the basis of sale deed. The said plot has been carved out from C.S. Plot no. 66 and it is the case of the petitioner that 6 dhurs of the said plot came to the share of the vendor of the petitioner, and 1 katha 1 dhur out of total area of 1 katha 7 dhurs came in the share of the private respondents. There is, however, no averment in the writ petition as to the manner in which the area of the C.S. Plot no. 66 was divided amongst the three purchasers including the vendor of the private respondents and the petitioner. Simply a bald statement has been made in that regard showing the allotment of 6 dhurs of land in favour of the vendor of the petitioner. To the contrary, as it transpires from the impugned order, the contention of the private respondents was that entire C.S. Plot no. 66, area 1 katha 7 dhurs came to the share of vendor of the private respondents. The perceptible mode of discord between the parties is regarding the entitlement of their vendors over the portion of disputed plot no. 66. As the R.S. plot no. 558 has been admittedly recorded in the name of vendor of the private respondents, it was for the petitioner to establish his case by leading appropriate evidence in that regard to rebut the presumption which is attached to the said record of rights in view of the provisions of Section 103 of B.T.Act.

7. From the perusal of the writ application it does not

appear that necessary averment in that regard has been made. As already observed, the material documents have also not been produced before this Court for perusal. In this view of the matter, this Court is not inclined to interfere in the matter.

8. It also appears that the issue arising between the parties relates to the question of title and as the petitioner claims that he is in possession over the disputed area as owner thereof, he would be at liberty to seek appropriate remedy before the Competent Civil Court.

9. The writ application is dismissed with the aforesaid observations.

(V. Nath, J.)

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