

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21098 of 2013

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Vijoy Poddar @ Vijay Kumar Poddar Son Of Late Bishundhari Poddar
R/O Garibdas Thakurwari Road, Naughachia, P.S. Naughachia, District -
Bhagalpur

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner, Bhagalpur Division, Bhagalpur
3. The Land Reforms Deputy Collector, Naugachia, District - Bhagalpur
4. The Circle Officer Naugachia, Sub - Division, Naugachia, District - Bhagalpur

...Opp.Parties/Respondents/Respondent 1st set

5. Ram Kumar Chirania Son Of Late Narain Lal Chirania Resident Of Shabid Tola - Naugachia, P.S. Naugachia, District - Bhagalpur
6. Smt. Shashi Chirania Wife Of Ram Kumar Chirania Resident Of Shabid Tola - Naugachia, P.S. Naugachia, District - Bhagalpur

...Applicant/Applicants/Respondent 2nd set

7. Navnit Piush Son Of Late Krishna Nand Poddar Resident Of Naugachia, Bishari Asthan Road, P.S. Naugachia, District - Bhagalpur

...Opposite party 2nd set/respondent 3rd set

8. Gopal Poddar Son Of Bishundhari Poddar R/O Garib Das Thakurwari Road, Naughachia, P.S. Naughachia, District - Bhagalpur
9. Sanjay Deo Poddar Son Of Bishundhari Poddar R/O Garib Das Thakurwari Road, Naughachia, P.S. Naughachia, District - Bhagalpur
10. Mukesh Poddar Son Of Bishundhari Poddar R/O Garib Das Thakurwari Road, Naughachia, P.S. Naughachia, District - Bhagalpur
11. Manoj Poddar Son Of Bishundhari Poddar R/O Garib Das Thakurwari Road, Naughachia, P.S. Naughachia, District - Bhagalpur
12. Rajesh Poddar Son Of Bishundhari Poddar R/O Garib Das Thakurwari Road, Naughachia, P.S. Naughachia, District - Bhagalpur

...Opposite party 1st set/ Respondent /Respondents 4th Set

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Singh

For the Respondent no.5 to 7 Mr. Sharda Nand Mishra

Mr.Rajesh Kr. Pandey

For the State

Dr. Anshuman SC 14

Mr. Kuber Pathak AC to SC 14

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

3 03-08-2015 Heard Mr. Sunil Kumar Singh counsel for the

petitioner, Mr. Mishra for respondent nos. 5 to 7 and

counsel for the State.

The respondent-second set filed an application for demarcation of the subject land before the respondent-Deputy Collector, Land Reforms invoking the jurisdiction of the court under the Bihar Land Dispute Resolution Act, 2009 (for short 'the Act'). This gave rise to the Case No. 98/2012-13 on the file of the respondent Deputy Collector, Land Reforms. After hearing the parties, the Deputy Collector, Land Reforms, vide order dated 26.02.2013 (Annexure-1) declined to grant relief to the respondent(s) for demarcation of the land as, in the opinion of the court, the land fell within the jurisdiction of the Municipal Corporation. The same was assailed by the respondent(s) before the appellate authority vide Case No. 07/2013-14. The appellate authority on a consideration of materials on record found that the mutation was already allowed in favour of the appellant(s) in respect of the subject land which was purchased from the respondent no.7 through a registered sale deed. Since there was already Jamabandi created in respect of the subject land the appellate court granted the relief. Aggrieved thereby, the present writ application has been filed.

The contention of the petitioner is that a fraud was committed by respondent no.7 in selling the land in favour of respondent(s)-second set by showing that the land was vacant land although the petitioner has residential house thereon. The appellate court did not appreciate this aspect of the matter.

Conversely, it has been argued on behalf of the respondent(s) as well as the State that the order passed by the Divisional Commissioner is revisable before the Bihar Land Tribunal. Mr. Mishra the counsel for the respondent nos. 5 to 7 further pointed out that the petitioner has already instituted a title suit being T.S. No.37/14 for setting aside the sale deed made by respondent no.7 in favour of respondent(s)-second set herein.

It thus appears that the petitioner has already sought relief before the appropriate court. That apart, if the petitioner is at all aggrieved by the said order, he may seek remedy as provided under the relevant Act. Considering the fact that the petitioner has a statutory remedy as also the fact that a suit has already been filed by the petitioner for setting aside the sale deed by the respondent no.7 which appears to be the sheet anchor of the case of the respondent,

this Court is not inclined to invoke its extra ordinary and discretionary writ jurisdiction to grant relief.

The application is dismissed.

(Kishore Kumar Mandal, J)

HR/-

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