

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1163 of 2012

IN

Civil Writ Jurisdiction Case No. 17423 of 2011

1. Uma Shankar Rai

2. Bijendra Rai

3. Chandan Rai

4. Prem Rai @ Prem Shankar Rai

All sons of Chandeshwar Prasad R/O New Punaichak, Opposite Lalita Hotel,
Boring Canal Road, P.S.- Krishna Puri, P.O.- G.P.O., District-Patna.

.... Appellants

Versus

1. The State of Bihar through the Collector, Patna

2. The Commissioner, Patna Division, Patna

3. The Deputy Commissioner, Land Reforms, Patna Sadar, Patna

4. M/S Britesky Buildcon Pvt. Ltd., through its Director Shri Prashant Luthra
having its registered office at 201-202, Kashi Place Dakbunglow Road, P.S.-
Kotwali, P.O.- G.P.O., District- Patna

5. Sri Prashant Luthra S/O Shri Vivindar Kumar Luthra Director of M/S Britesky
Buildcon Pvt. Ltd., R/O Brite House D/68/A, Sri Krishnapuri, P.S.- Sri Krishna
Puri, P.O.- G.P.O., District- Patna.

6. Sri Ram Krishana Prasad

7. Sri Lala Prasad

8. Sri Raghubir Prasad

9. Sri Ashok Kumar

10. Sri Shambhu Prasad

11. Sri Satyanarayan Prasad

All son of Late Sona Gope

12. Sri Manoj Kumar S/O Late Ram Babu Rai

Respondent 6 to 12 resident of mohalla - Punaichak, P.S.- Shastri Nagar, District-
Patna.

.... Respondents

Appearance :

For the Appellant : Mr. K. N. Chaubey, Sr. Advocate

Mr. Satyabir Bharti, Advocate

For the Respondent nos. 4 & 5: Mr. Y.V. Giri, Sr. Advocate

For the State : Mr. Suraj Samdarshi, Advocate
Mr. Gautam Bose, A.A.G.-8

CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 19-08-2015

We have heard Sri K.N. Chaubey, learned Senior Counsel at length in support of the Intra-Court Appeal, Sri Y.V. Giri, learned Senior Counsel appearing on behalf of respondent nos. 4 and 5, who are private respondents contesting the proceedings and Sri Gautam Bose, learned A.A.G.8 representing on behalf of the State.

2. The appellant was the writ petitioner. He had filed the writ petition objecting to the proceedings taken up before the Deputy Collector Land Reforms (in short the “D.C.L.R.”) and the then appellate authority, the Divisional Commissioner, under the provisions of the Bihar Land Disputes Resolution Act, 2009 (hereinafter referred to as the “Act”) at the instance of respondent nos. 4 and 5.

3. The grievance of the writ petitioner was that he being in possession of certain piece of land which was illegally sought to be evicted by respondent nos. 4 and 5 through the process of the procedure under the said Act. The learned Single Judge chose not to interfere in the orders

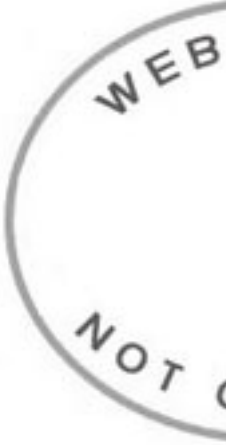
passed by those statutory authorities.

4. We have heard the parties and gone through the records. The claim of the writ petitioner, who is the appellant before us, is based upon so-called agreement to sell. Petitioner alleges that he was ready to purchase the property in question and paid part consideration. The property happens to be prime piece of land in the heart of Patna Town.

5. In the counter affidavit to the writ proceedings, wherein a Title Suit No. 466/2010 was filed by the writ petitioner itself in the civil court as early as on 11.08.2010, being a suit for specific performance, opening paragraph whereof is as follows:

“1. That the defendants are the Owners in possession of 8 (Eight) Kathas land of Plot No. 167 fully described in Schedule – I of the Plaint.”

6. Nowhere in the plaint or subsequently in the suit, there has been any pleading that writ petitioner was ever given possession or allowed to enter upon the said land. Then, to make out a case in the writ proceedings that he was in possession cannot be accepted. If the writ petitioner has



any grievance, he has other remedies, but, the learned Single Judge, on those facts, has chosen not to interfere.

7. We, in this Intra Court Appeal in the aforesaid facts and circumstances, could not interfere. This appeal is, accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajeev/A.F.R.

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