

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.731 of 1999

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1. Vindhyavasini Prasad , son of Late Durga Prasad
2. Bikramaditya Jaipuriyar
3. Bipin Bihari Jaipuriyar
4. Naveen Kumar Jaipuriyar, all sons of Shri Vindhyavasini Prasad
All residents of Mohalla- Madhubani, Police Station-Khajanchi Hat,
District- Purnia

.... Petitioners

Versus

1. The State of Bihar through the Secretary, Department of Revenue and Land Reforms, Government of Bihar, Main Secretariat Building, Patna
2. The Joint Secretary, Department of Revenue and Land Reforms, Govt. of Bihar, Main Secretariat Building, Patna
3. The Collector, Purnia
4. The Addl. Collector, Purnia
5. The Deputy Collector in Charge, Khas Mahal at Collectorate, Purnia
6. The Anchal Adhikari, Purnia East Anchal, Purnia
7. Sk. Afroz Alam, son of Sk. Jalil, resident of Adampur, P.S. K.Nagar, Purnia, District- Purnia
8. Md. Ashfaque Alam, son of S.K. Allauddin, resident of Adampur, P.S. K.Nagar, Purnia, District- Purnia
9. Sapan Kumar Das, Son of Shambhu Nath Das, resident of Madhubani, P.S. Khazanchi Hat, Purnia, District- Purnia
10. Kundendo Pathak, son of Lalitesh Pathak, resident of Madhubani, P.S. Khazanchi Hat, Purnia, District- Purnia
11. Radha Kant Gupta, son of Balkrishna Gupta, resident of Madhubani, P.S. Khazanchi Hat, Purnia, District- Purnia
12. Kishore Kumar, son of Late Surajdeo Prasad, resident of Madhubani, P.S. Khazanchi Hat, Purnia, District- Purnia

.... Respondents

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Appearance :

For the Petitioner/s : Mr. K.N.Choubey, Sr. Adv.
Mr.Arun Prasad Ambastha, Adv.

For the Respondent/s : Mr. AC to AAG-12
Mr. Md.Ibrarr Hussain

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 21-05-2015

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Heard Sri K.N.Choubey, learned Senior Counsel, who was
assisted by learned counsel for the petitioners, learned AC to AAG-12

and Mr. Md. Ibrarr Hussain, learned counsel for intervenors/ Respondents.

2. The petitioners, invoking writ jurisdiction of this Court under Article-226 of the Constitution of India, have prayed for quashing of an order dated 16.09.1998 i.e. Annexure-1 series to the writ petition, issued by the Addl. Collector, Purnia, whereby the original petitioner no.1 was directed not to realize rent from the tenants inducted in the market complex constructed over Survey Khata no.34, Khesra No.34, Ward no.10/4, Madhubani. It has been claimed by the petitioners that the land in question was purchased by the ancestors of the petitioners long back in the year 1916 and, thereafter, a market complex was constructed over the land and number of shops were also constructed and subsequently tenants were inducted by the petitioners. In the record of right, the name of original petitioner no.1 was recorded. In sum and substance, it has been pleaded that the land is a purchased land and records are continuing in the name of the petitioner.

3. Sri K.N.Choubey, learned Senior Counsel assailing Annexure-1 series has argued that without any provision of law and without any authority, such communication has been made by the Addl. Collector.

4. In this case, a Bench of this Court by order dated 01.02.1999, while granting time to the State Counsel for getting

instruction and filing counter affidavit, had directed to stay the operation of order/ notification, contained in Annexure-1 series. Finally, the writ petition was admitted for hearing on 01.03.2000. However, till date the State has not responded in the present writ petition by filing any counter affidavit.

5. In this case, earlier a petition was filed vide I.A. No.3565 of 2001 on behalf of six intervenors for allowing them as party Respondents, which was allowed on 24.09.2001 and , accordingly, they have been impleaded as Respondent nos. 7 to 12.

6. Mr. Md. Ibrar Hussain, learned counsel for the Intervenor/Respondents accepts that Respondent nos. 7 to 12 were inducted as tenants by the petitioners. However, a plea has been taken by private Respondents that the petitioners had agreed to transfer the shop to the intervenors, but the petitioners have not taken any step to execute the sale deed.

7. In absence of any rebuttle to the writ petition, regarding entitlement of the petitioners over the land in question, the Court is of the opinion that the Addl. Collector was not having any jurisdiction or authority to issue Annexure-1 series. Accordingly, Annexure-1 Series are hereby set aside. However, it is made clear that this Court has not adjudicated on the question of title and possession over the land in question. It would be open for the Respondent/State to take

appropriate steps in accordance with law. The question raised by the Intervenor/Respondents is not required to be adjudicated in the present writ petition.

8. The writ petition stands allowed.

(Rakesh Kumar, J)

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