

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8666 of 1998

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1. Sita Ram Kahar son of Late Jag Mohan Kahar
2. Kedar Kahar son of Late Jag Mohan Kahar
All resident of village-Patej, P.S. Amas, District-Gaya
..... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Gaya
3. The Sub-Divisional Magistrate, Sherghatty, District-Gaya
4. The Deputy Collector, Land Reforms, Sherghatty, District-Gaya
5. Kailash Bhuiyan son of Ram Deo Bhuiyan, resident of village-Patej, P.S. Amas, District-Gaya
..... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Bhanu Ptatap Singh, Advocate
 Mr. Manindra Kishore Singh, Advocate
 Mr. Jharkhandi Upadhyay, Advocate

For the Respondent/s : Mr. Rajiv Singh, G.P.-2

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 09-07-2015

Mr. Bhanu Pratap Singh for the petitioner and Mr. Rajiv Singh, Government Pleader No. 2 for the State.

The petitioner has questioned the order dated 27.7.1998 passed by the Collector-cum-District Magistrate, Gaya whereby the Collector while disagreeing with the opinion of the Deputy Collector Land Reforms, Sherghati as well as the Sub-Divisional Officer, Sherghati present at Annexure-3 in the matter of modification of the settlement order issued in favour of private respondent, has held that the same requires no modification. Copies of the order passed by the Deputy Collector Land Reforms dated 17.2.1997, the order dated

18.6.1997 of the Sub-Divisional Officer and order dated 24.7.1998 / 27.7.1998 passed by the District Magistrate, Gaya are placed at Annexure-2, 3 and 5 respectively to the writ petition.

The limited issue raised by the present petitioner is that there is a concurrent finding of fact by the Deputy Collector Land Reforms as well as the Sub-Divisional Officer regarding the possession of these petitioners on Plot Nos. 5 and 6 at village-Patej in the district of Gaya. It is further the contention that in fact the evidence available on record supported the contention of the petitioners that the respondent no. 5 was not a landless person.

Mr. Singh, learned counsel for the petitioners relying upon the conclusion drawn by the Deputy Collector Land Reforms as well as the Sub-Divisional Officer has submitted that since the possession of these petitioners on the plot nos. 5 and 6 stands confirmed, the District Magistrate ought not to have interfered with the opinion. Though notice was issued to the private respondent but upon his refusal to accept the same, it has been deemed to be validly served. Even while making such assertions on behalf of the petitioners, Mr. Singh is unable to refer to any document to support any valid settlement in favour of these petitioners. Perhaps it is in view of this position that the District Magistrate has not accepted the opinion of the subordinate authorities.

In the circumstances reflecting on the record of the proceedings, Mr. Bhanu Pratap Singh, learned counsel prays for disposal of the writ petition reserving liberty for the petitioners to take recourse to such other remedy that may be available to them in law for raising a claim settlement over the plots no. 5 and 6 at village Patej in the district of Gaya on the basis of their continuous possession.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

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