

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16564 of 2009

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Ajoy Kumar Singh S/O Late Thakur Kanti Charan Singh, R/O Vill.- Kakwara, P.S.-
Banka, Distt.- Banka

.... Petitioner/s

Versus

1. The State Of Bihar Through Chief Secretary Govt. Of Bihar, Patna
2. The District Magistrate Banka
3. The Sub-Divisional Magistrate Banka
4. The D. C. L. R., Banka
5. Additional Collector Banka
6. Shail Bala Singh W/O Late Ranjit Kumar Singh R/O Vill.- Kakwara, Dyori,
P.O.- Kakwara, P.S.- Banka, Distt.- Banka

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Diwakar Pd. Karn
Mr. Chandra Shekhar Anan
For the Respondent No.1 to 5: Mr. Prinyank Deepak, AC to SC-19

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT
Date: 05-02-2015

Heard the parties.

The petitioner is aggrieved by the order dated 19.10.2004 (Annexure-1) passed in Miscellaneous Case No. 16/2004 by the respondent District Magistrate, Banka, whereby prayer made by one Thakur Kanti Charan Singh- father of the petitioner for permitting him to hold cattle hat on his land bearing Khata No.1, Khesra No. 1655 situate at Village-Kakwara was rejected in view of the report/order dated 18.10.2004 (Annexure-1) of the respondent Additional Collector, Banka and Ranjit Kumar Singh- the husband of the respondent no. 6 was permitted to hold cattle hat on two days in a week on the lands belonging to him.

Before the impugned order dated 19.10.2004 (Annexure-1) was passed, a detailed enquiry was conducted by the respondent

Additional Collector, Banka in view of the rival claims between the father of the petitioner and the husband of the respondent no.6 for holding cattle hat on their respective lands. The respondent Additional Collector, Banka after holding a detailed enquiry and considering the entire materials, by order dated 18.10.2004 came to the conclusion that there is no accessible road for the common people to reach over plot no. 1655, belonging to the father of the petitioner, therefore, cattle hat cannot be permitted to be held on that land.

Learned counsel appearing on behalf of the petitioner has not been able to dislodge the conclusion recorded by the respondent Additional Collector, Banka. The respondent District Magistrate by his impugned order has accepted the recommendation/ report of the Additional Collector, Banka and has allowed the claim of the husband of the respondent no.6.

Furthermore, this Court finds that when the impugned order was passed, the father of the petitioner was still alive, but he chose not to challenge the validity of the aforesaid order. However, after his death the present writ petition has been filed by the petitioner in the year 2009 after lapse of five years from the date of the impugned order. Admittedly, the petitioner was not a party in the aforesaid proceeding. The petitioner cannot claim any inheritable right by virtue of the impugned order dated 19.10.2004 (Annexure-1) by which the claim raised by his father was rejected.

In above view of the matter, the present writ petition is completely misconceived and is, accordingly, rejected, but there shall be no order as to costs.

(Birendra Prasad Verma, J)

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