

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.359 of 2012

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1. Jamuna Kuer @ Ramuna Kuer wife of Late Ramchandra Singh @ Ramchandra Chaudhary, resident of Village-Dhanpura, P.O. Chilharuan, P.S. Dinara (Bhanas), District-Rohtas at Sasaram

2. Rajesh Kumar Singh wife of Late Ramchandra Singh @ Ramchandra Chaudhary, resident of Village-Dhanpura, P.O. Chilharuan, P.S. Dinara (Bhanas), District-Rohtas at Sasaram

.... Petitioner/s

Versus

1. The State of Bihar

2. The District Magistrate, Rohtas at Sasaram, District Rohtas at Sasaram

3. The Sub-Divisional Officer, Bikramganj, District-Rohtas at Sasaram

4. The Deputy Collector, Land Reforms, Rohtas at Sasaram, District-Rohtas at Sasaram

5. The Circle Officer, Dinara, District-Rohtas at Sasaram

6. Birendra Singh son of Late Lakshman Singh, resident of Village-Dhanpura, P.O. Chilharuan, P.S. Dinara (Bhanas), District-Rohtas at Sasaram

7. Dhamano Kuer wife of Late Lakshman Singh, resident of Village-Dhanpura, P.O. Chilharuan, P.S. Dinara (Bhanas), District-Rohtas at Sasaram

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.B.K. Mangalam, Advocate
Miss Rumali Ranjana Bharti, Advocate

For the Respondent Nos. 1 to 5: Mr. Shashi Shekhar Pd. Sinha, AC to GA 13

For the Respondent No. 6 : Mr. Abhay Kumar Thakur, Advocate
Mr. Sanjay Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 10-09-2015

Heard the parties.

2. The petitioners have filed the present writ petition under Article 226 of the Constitution of India for the reliefs enumerated in paragraph 1 of the writ petition, which reads as follows:-

“That this writ application on behalf of the petitioners above named is for the following

R E L I E F S

(i) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the

Respondent no.5 to stay the proceedings of the Mutation case filed by the Respondent no.6 for mutation of the properties recorded in the name of the husband of the petitioner no.1 and the father of the petitioner no.2 till the disposal of the Title Suit No. 331 of 2010 filed by the petitioners, challenging the deed of adoption of the Respondent no.6 and till the disposal of trial of G.R.Case No. 492 of 2010 arising out of Dinara P.S.Case No. 114 of 2010 pending in the court of the learned Sub-Divisional Judicial Magistrate, Bikramganj, District Rohtas.

(ii) For a declaration that if the Respondent no.6 has filed a Mutation Case on the basis of a deed of adoption, which is the subject matter of challenge in the Title Suit No. 331 of 2010 and Dinara P.S.Case No. 114 of 2010, G.R.No. 492 of 2010, the Respondent no.5 is not justified to proceed with the mutation case when he has been informed by the petitioners regarding the pendency of the aforesaid two cases on the correctness of the said deed of adoption unless these proceedings are dismissed and the validity of the deed of adoption is upheld.

(iii) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioners would be found entitled under the facts and circumstances of the case.”

3. Learned counsel appearing on behalf of the petitioners submits that on the basis of a forged and fabricated deed of adoption, as contained in Annexure-1 to the writ petition, the respondent no.6 Birendra Singh is claiming the entire landed property of the petitioners and therefore, he has filed a Mutation case before the respondent Circle Officer, Dinara. He further submits that the validity of the aforesaid deed of adoption is the subject matter of challenge in Title Suit No. 331 of 2010 pending in the court of learned Subordinate Judge 1st, Sasaram. It is contended that the petitioner no.1 has also lodged a criminal case for alleged forgery committed by the respondent no.6 besides others and that criminal case is still pending in the court below. It is pleaded that till these litigations are concluded finally by the

competent court, the respondent Circle Officer, Dinara be restrained from deciding the mutation case filed on behalf of the respondent no.6 with respect to the lands under dispute.

4. Learned counsel appearing on behalf of the respondent no.6 submits that deed of adoption, as contained in Annexure-1, is valid and legal; therefore, the respondent no.6 has acquired legal right, being the legally adopted son, to acquire the property of petitioner no.1. However, he fairly conceded that the aforesaid deed of adoption is the subject matter of challenge in Title Suit No. 331 of 2010 in which the respondent no.6 is the defendant no.1. He also conceded that in a criminal case lodged by the petitioner no.1, vide Annexure-2, the respondent no.6 is an accused. However, by referring to the averments made in the counter affidavit filed on behalf of the respondent no.6, he contended that a criminal case has been lodged by the respondent no.6 also against the petitioners, besides others.

5. In the aforesaid factual matrixes, this Court is of the opinion that the whole claim of right, title and possession of respondent no.6 with respect to the lands in question hinges on the validity and correctness of the deed of adoption (Annexure-1), but its validity is the subject matter of challenge in the aforesaid pending Title Suit No. 331 of 2010.

6. In above view of the matter, this Court is further of the opinion that till the aforesaid title suit is decided by the Civil Court, the claim of mutation regarding the lands in question must not be decided by the respondent Circle Officer, Dinara or any other revenue officer in favour of either of the contesting parties.

7. For the reasons recorded above, the respondent no.5 Circle Officer, Dinara is hereby restrained from passing any

order of mutation regarding lands in question till T.S.No. 331 of 2010 is finally disposed of by the Civil Court.

8. The writ petition stands finally disposed of with the observation and directions made above.

(Birendra Prasad Verma, J)

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