

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17374 of 2010

Most. Lakshiya Devi @ Lakhiya Devi, W/o Late Ashok Kumar Mahto, R/o
Moh -Bhainsasur, P.O. & P.S.-Biharsharif, Distt-Nalanda

.... Plaintiffs-Petitioner

Versus

1. The State of Bihar through Collector, Nalanda
2. The Circle Officer, Biharsharif, Nalanda
3. Javed Hasim, Secretary Kabristan Committee, Kashi Takiya, Bhainsasur,
P.S.-Bihar Sharif, Nalanda
4. Manoj Kumar, S/o Kali Mahto, President, Kali Puja Samiti, Bhainsasur,
Bihar Sharif, Nalanda

.... Defendants-Respondents 1st set

5. Sanjay Kumar

6. Santosh Kumar

Both sons of Late Ashok Kumar Mahto, R/o Moh- Bhainsasur, P.O.& P.S.-
Bihar Sharif, Distt-Nalanda

.... Plaintiffs-Respondents 2nd set.

Appearance :

For the Petitioner/s : Mr. Sudhir Kumar, Advocate

For the Respondent/s : Mr. Madhukar Mishra, AC to SC-31

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 04-02-2015

Heard learned counsel for the petitioner and learned
counsel for the State.

The present application under Article 227 of the
Constitution of India has been filed for quashing the order dated 12th



July, 2010 passed by the learned Additional District Judge-V, Nalanda in Misc. Appeal No. 24 of 2009 whereby the learned Additional District Judge-V, Nalanda has confirmed the order dated 20th July, 2009 passed by the learned Sub Judge-I, Biharsharif, Nalanda in Title Suit No. 155 of 2008 by which he has rejected the injunction petition of the plaintiff-petitioner.

The petitioner and others have filed Title Suit No. 155 of 2008 for declaration of right and title over the suit land in question and further to confirm the possession of the plaintiffs and in case the plaintiffs are not found in possession to restore their possession over the suit land.

The learned Sub Judge-I, Biharsharif in his order dated 20th July, 2009 has recorded that the plaintiffs have not produced any document in respect of their possession and have also failed to produce any proof that suit land was ever settled by the State Government in their favour after vesting of *Jamindari*. He has held that there is no *prima facie* case and balance of convenience in favour of the petitioner. He has further held that the plaintiffs are not going to suffer irreparable loss because if the plaintiffs succeed in the suit, they will be entitled to possession over the suit land. The said order has been confirmed by the appellate Court on 12th July, 2010 in Misc. Appeal No. 24 of 2009.

No point of law has been raised by the petitioner in the present case. I find no illegality or irregularity in the impugned orders passed by the Courts below.

In that view of the matter, I find no merit in the present application. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

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