

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14198 of 2001

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1. Chameli Devi, wife of late Ganesh Lal Gupt.
 2. Amarnath Gupt
 3. Munna Kumar Gupt
 4. Govind Gupt
 5. Durga Gupt
 6. Gajadhar Gupt, all sons of Ganesh Lal Gupt, residents of Mohalla-Bahuar Choura, P.S. Civil Line Gaya, District-Gaya.
 7. Laxchmin Devi, daughter of late Ganesh Lal Gupt and wife of Kanhaiya Lal Jhangar, resident of Mohalla-Chandcheura, P.S. Civil Lines, District-Gaya
 8. Rani Devi, daughter of late Ganesh Lal Gupt, wife of Avinash Gayab, resident of Mohalla Pachmahalla, P.S. Civil Line, Gaya, District-Gaya
 9. Rupa Kumari, daughter of late Ganesh Lal Gupt, resident of Mohalla-Bohaura Chaura, P.S. Civil Line, Gaya
 10. Chanda Devi, daughter-in-law of Ganesh Lal Gupt, wife of late Nand Lal Gupt.
 11. Vivek Kumar, son of late Nand Lal Gupt
 12. Aman Kumar
 13. Suman Kumar, both minor sons of late Nand Lal Gupt under the guardianship of their mother Chanda Devi
 14. Dipali Kumari
 15. Sanu Kumari, both minor daughters of late Nand Lal Gupt under the guardianship of their mother. All residents of Mohalla Bahuar Chaura, P.S. Civil Line Gaya, District Gaya.

.... Petitioner/s

Versus

1. The State of Bihar
2. Superintendent of Survey, Gaya
3. Assistant Superintendent of Survey, Gaya
4. Gaya Municipality, Gaya
5. Kishun Nath Gupta
6. Ganga Vishnu Gupta, both are sons of Kishun Lal Gupta, resident of Mohalla Bahuar choura, P.S. Civil Lines, district Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhruv Narayan, Sr. Advocate.

Mr. Abhishek, Advocate

For the State : Mr. Manoj Kumar Jha, AC to GP-26

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 30-03-2015

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



In the present writ petition, petitioner is challenging the order dated 18.1.2001 passed by Superintendent of Survey, Gaya (respondent no.2) with respect to Khata No.222, Survey Plot No.,775 and Municipal Plot No.17096 situated in ward No.22 of Gaya Municipality. Petitioners are claiming their right, title and possession over the construction of their residential houses.

The fact of the case is that Shyam Lal Gupta was the original land holder but he failed to pay the tax for long time on that account property was put to auction, the land along with structure was purchased by Jamuna Dai Guptyain mother of the original petitioner by a registered sale deed in the year 1941-42 and they remained in peaceful possession over the land in question, her name vide order dated 12.8.1943 was recorded by the municipality in Mutation Case No.781 of 1942-43. with respect to Holding No.129 of 1943-44, accordingly she was paying rent.

After the death of mother of the petitioner, the petitioner along with her father Moti Lal Gupta became absolute owner of the property and latter on Motilal Gupta also died in the year 1990.

In the year 1987 private respondents filed a petition under Section 9 of the Bihar & Orissa Municipal Survey Act for recording their names as joint holder of the house in question and

after hearing the parties vide order dated 20.1.1990 in Case No.44 of 1987 allowed the prayer of the private respondents. Accordingly name of the petitioner along with private respondents was recorded.

Being aggrieved by the aforesaid order petitioners moved to the appellate authority. The appellate authority allowed the appeal on 10.9.1998 and set aside the order dated 20.1.1990 in Case No.125 of 1990. It also appears that after lapse of years during survey a report was submitted by the official of the Municipal Survey and recommended for recording the name of private respondents over the disputed house on 18.1.2000 and accordingly the name of respondents were recorded.

Learned counsel for the petitioner submits that the order is perse illegal.

It is well know principle of law that recording the name of a person in the revenue record does not confer any right or extinguish the same. The right and title of a party can be decided through a suit before appropriate civil court. In such view of the matter this Court does not intend to deal with the matter on merit. Any entry made in the revenue record would not create advantage and disadvantage of either party. If so advised, the parties may go to the civil court for declaration of their right, title

and possession.

With the aforesaid observation this writ petition is disposed of.

(Shivaji Pandey, J)

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