

Letters Patent Appeal No 1218 of 2012
IN
Civil Writ Jurisdiction Case No 2682 of 2009

In the matter of an appeal under Clause X, Appendix E of the Letter Patent of
Patna High Court Rules.

Nagendra Kumar Kushwaha S/O Jagdish Kushwaha R/O Village & P.S.- Piprahi,
District- Sheohar

.... Appellant/s

Versus

1. The State Of Bihar through The Collector, Sheohar
2. The Deputy Collector, Land Reforms, Sheohar
3. The Circle Officer, Piprahi, District- Sheohar
4. The Officer-In-Charge Piprahi, District- Sheohar
5. Kedar Nath Sah S/O Late Ramdhari Sah R/O Village, Post Office And Police
Station- Piprahi, District- Sheohar

.... Respondent/s

Appearance :

For the Appellant/s : Mr KUMOD KUMAR SHRIVASTAW

For the Respondent/s: Mr PRABHAKAR TEKRIWAL GA1

CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH
And
HON'BLE MR JUSTICE JITENDRA MOHAN SHARMA

ORAL JUDGMENT

(Per: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH)

We have heard the learned counsel for the appellant and the learned
counsel for the State at length. We are not inclined to interfere in the matter for
the reasons as follows:

2 The writ petitioner (who is respondent No 5 in this appeal) had
challenged an order issued by the Deputy Collector, Land Reforms (DCLR) in
respect of alleged encroachment made by the appellant on public land in respect
of plot No 2611 at Piprahi in the district of Sheohar. In the writ proceedings, the
appellant Nagendra Kumar Kushwaha intervened and his intervention application



was allowed. After hearing the intervener, the State and the writ petitioner, writ petition was allowed and the notice issued initiating land encroachment proceedings as against the writ petitioner was quashed. The Writ Court had gone into detailed facts. The Writ Court found that initially plot No 2611, which had an area of 5 decimals, was divided half and half. Ultimately, 2.5 decimals were purchased by the mother of the intervener (appellant before us) and 2.5 decimals were purchased by the writ petitioner (Kedar Nath Sah). There was a land acquisition proceeding in respect of lands including entire lands of plot No 2611. Thereafter, an encroachment proceeding was initiated as against the writ petitioner. In those proceedings also, before the DCLR, the intervener (appellant before us) had intervened. Orders having been passed, appeal was preferred. Matter was remanded. Reheard. Finally, the matter was concluded by order of DCLR in those encroachment proceedings clearly holding that so far as the intervener/appellant is concerned, his entire land in plot No 2611 of 2.5 decimals had been acquired and compensation paid though the intervener deceitfully managed to get compensation for 3 decimals of land. He had wrongly encroached upon 0.5 decimal. The DCLR also held that the land acquisition proceeding, so far as the writ petitioner is concerned in respect of his 2.5 decimals, did not finally fructify as there was no proper notice to the writ petitioner in the proceedings. This order of DCLR attained finality many years back and rightly held so by the learned Single Judge.

3 Thus seen, the intervener/appellant has absolutely no right in the matter. Apparently, he is only trying to protect his unauthorized occupation of some lands in plot No 2611. It is on these grounds that the order of the DCLR having attained finality, there could be no further proceedings again taken up against the writ petitioner for encroachment, that the writ petition was allowed.

4 From the facts above, it is clear that the intervention of the intervener/appellant is not in bona fide nor he has any right in the proceedings.

5 Accordingly, we are not inclined to interfere in the matter. This appeal is dismissed.

(Navaniti Prasad Singh, J)

(Jitendra Mohan Sharma, J)

Patna High Court,
The 19th of February 2015,
NAFR, M E Haque/-

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