

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14655 of 2014

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1. Kumar Parmendra @ Bilale Singh Son of Late Sarju Prasad Singh Resident of Mohalla - New Area, Sasaram (near Prakash Petrol Pump, G.T. Road), P.O. AND P.S. - Sasaram, District - Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Divisional Commissioner, Patna Division, Patna.
3. Deputy Collector, Land Reforms, Sasaram, District - Rohtas
4. Janeshwar Singh Son of Chhathu Singh Resident of Village - Gopi Bigha (Jamuhar), P.S. - Dehri, District - Rohtas, at Present residing at Mohalla - Gaurakshani (Gajrarh), P.S. - Sasaram, District - Rohtas.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Prasad Singh

For the Respondent/s : Mr. Ajay Bihari Sinha

Mr. Sanjay Kumar Pandey

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 12-02-2015

Heard Mr. Jitendra Prasad Singh for the petitioner, Mr.

Sanjay Kumar Pandey for respondent no. 4 and Counsel for the State.

Petitioner purchased the subject land from various persons who were descendants of one person. The private respondent no. 4, on the other hand, claims purchase from one Salaha Begum. A litigation between the vendor of the petitioner and the vendor of the respondent no. 4 was fought in the Civil Court wherein it was held that the *Baimokasa* deed executed in favour of Salaha Begum by her husband was null and void. There is also some litigation which was filed before the Consolidation Officer which went in favour of the vendor of the petitioner and approved up to the Hon'ble Apex Court.



The respondent no. 4 approached the respondent Deputy Collector, Land Reforms invoking his jurisdiction under Bihar Land Dispute Resolution Act. The same was contested by the petitioner. The respondent Deputy Collector, Land Reforms entertained the said application and passed an order restraining the petitioner from making construction over the suit land. Aggrieved thereby, the present writ petition has been filed.

On going through the writ petition, it appears the petitioner has already invoked the jurisdiction of the Appellate Authority i.e. Divisional Commissioner against the order under challenge in this writ petition. It has also been submitted that the Appellate Authority has not, till date, considered and disposed of the appeal. In the meanwhile, the respondents have approached the Revenue Authority for cancellation of jamabandi which is running in the name of the purchaser i.e. the writ petitioner.

Counsel for the petitioner has relied on ***Maheshwar Mandal vs. State of Bihar 2014 (3) PLJR 281*** in order to contend that the Authority shall have no jurisdiction in such matter. Counsel for the respondent has opposed the said contention.

In my view, if the appeal filed by the petitioner is pending consideration, it will not be an appropriate exercise of writ jurisdiction in the present writ petition. Let the petitioner pursue the

remedy which he has already invoked. The contention of the petitioner is that the appeal of the petitioner has not till date been considered by the Appellate Authority.

Regard being had to above, this Court would direct the Appellate Authority to consider and dispose of the appeal filed by the petitioner vide Land Dispute Appeal No. 687 of 2013 as quickly as possible but in no case later than three months from the date of receipt/production of a copy of this order. Both the parties have undertaken to appear before the Appellate Authority within three weeks along with a copy of the present order enabling him to take up the said appeal and dispose of in accordance with law. Until disposal of the appeal, the respondents shall not pass any order altering the jamabandi in respect of the subject land.

The writ application is disposed of.

(Kishore Kumar Mandal, J)

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