

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6297 of 2007

Ashok Kumar Choudhary, son o Sri Kishto Prasad Choudhary, Resident of village Devdha, Nagar Panchayat Ward No. 2/11 an presently resident of Mohalla Babutola, Banka Nagar Panchayat Ward No. 7/12, P.O. Banka, District Banka

.... Petitioner

Versus

1. The State of Bihar through the Revenue Secretary, Government of Bihar, Patna
2. The Collector, Banka
3. The Deputy Collector, Land Reforms, Banka
4. The Circle Officer, Barahat, District Banka
5. Asish Choudhary
6. Mahesh Choudhary
Both sons of Late Bangali Choudhary
7. Gautam Choudhary, son of Late Uday Choudhary,
8. Laxmi Devi, wife of Late Mahanand Choudhary
Respondent Nos. 5 to 8 resident at Village Barahat, P.O. Barahat, P.S. Banka, District Banka

.... Respondents

Appearance :

For the Petitioner : Mr. Dharendra Kumar (Munna), Advocate
For the State : M/s Kundan Bahadur Singh, SC 22 and
Madanjeet Kumar, AC to SC 22
For the Respondent : None
Nos. 5 to 8

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 19-01-2015

I have heard learned counsel for the petitioner and the State. None has appeared on behalf of the respondent nos. 5 to 7.

That the controversy is with respect to the 14 katha 7 dhur of land of Plot No. 85 appertaining to Khata No. 3438/3439 of Mauza Sondih, Tola Akka Gauda, Bada Bazar, District Banka.

Claim of the petitioner is that this land belonged to the



family of the respondent nos. 5 to 8 as the aforesaid land was settled in the name of Bengali Choudahry, the ancestor of respondent nos. 5 to 8 by the erstwhile Zamindar but due to non payment of rent this was again auctioned and, thereafter, it was settled in the name of petitioner's ancestor, namely, Lok Nath Choudhary by a Hukumnama dated 31.9.1941. Accordingly, the petitioner's ancestor came in possession of the land and continued in possession thereof. After vesting of Zamindari the State of Bihar created Jamanbandi No. 32 in his name. Thereafter, the petitioner's family was paying rent all along. Suddenly in a Section 144 Cr.P.C. proceeding respondent nos. 5 to 8 produced rent receipt which shows that they are paying rent with respect to the concerned land to the State of Bihar as Jamabandi No. 151 was created in their favour.

Learned counsel for the petitioner submits that it is a peculiar situation that with respect to the same land two jamabandis are running as the petitioner is paying rent and which was being accepted by the State of Bihar and the rent receipt was issued and at the same time respondent nos. 5 to 8 are also paying rent.

However, since no counter affidavit has been filed on behalf of the respondent nos. 5 to 8 and none had appeared also at the time of hearing, this writ application is being disposed of with liberty to the petitioner to approach the Collector of the District

under Bihar Land Mutation Act, 2011 for redressal of grievance as the matter requires detailed examination of materials on records and other evidence.

The Collector concerned will examine the matter and pass a reasoned order after granting reasonable opportunity to all the concerned parties including respondent nos. 5 to 8. The aforesaid exercise should be completed within a period of two months from the date of filing of such application by the petitioner along with a certified copy of this order. However, it is made clear that while doing so, he cannot decide title rather he will have to examine as to, in the facts and circumstances, which jamabandi would be fit to survive.

(Dr. Ravi Ranjan, J)

Spd/-

U			
---	--	--	--