

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5515 of 2004

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Sri Nath Sharma son of Sri Sudarshan Sharma, resident of Ahirauli, P.S. Buxar (Industrial), District- Buxar, at present Budhanpurwa Ward No.10 (Old Ward No.2), P.S.- Buxar (Town), District- Buxar.

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Buxar.
3. The Sub-divisional Officer, Buxar.
4. The Circle Officer, Buxar Block, Buxar.
5. The Superintendent of Police, Buxar.
6. The Town Deputy Superintendent of Police, Buxar, District Buxar.
7. The Officer Incharge, Buxar Town, P.S. Buxar, District Buxar.
8. Mosmat Chanda Devi wife of Late Ram Chandra Sharma.
9. Sri Anand Kumar Sharma son of Late Ram Chandra Sharma
10. Amar Kumar Sharma
11. Ravi Kumar Sharma, both sons of late Ram Chandra Sharma, resided under the guardianship of Mosmat Chanda Devi.
12. Naina Kumari daughter of late Ram Chandra Sharma, represented through under the guardianship of Most. Chanda Devi, Serial No. 8 to 12 resident of Main Road, Bangali Tola, Buxar.
13. Daya Shankar Singh son of late Kamla Prasad Singh.
14. Anil Kumar Singh son of Sheo Shankar Singh.
15. Vijay Shankar Singh.
16. Rama Shankar Singh, sons of Kamla Prasad Singh.
17. Hari Bhushan Singh son of Vishwamitra Singh
18. Shashi Bhushan Singh son of Sudesh Singh.
19. Nannet Singh son of Vijay Shankar Singh.
20. Sri Krishna Singh son of Daya Shankar Singh, serial No. 13 to 20, resident of village Sisradh, P.S. Rampur, District- Buxar.
21. Girija Shankar Singh son of late Kesho Singh.
22. Binay Prasad Singh son of Krishna Singh.
23. Manoj Kumar Singh son of Uma Shankar Singh, serial No. 22 to 23 resident of village Hethwa, P.S. Rajpur, District Buxar.
24. Aarti Devi wife of Ram Chhabila Rai.
25. Ashutosh Kumar son of Ram Chhabila Rai.
26. Santosh Kumar son of Ram Chhabila Rai, serial No. 24 to 26, resident of Ram Bagh, P.P. Road, Buxar, P.S. Buxar (Town), Distt. Buxar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Achaibar Singh

For the Respondent/s : Mr. Ravi Bhardwaj, AC to GA-5

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 31-07-2015

Heard the parties.

The claims raised on behalf of the petitioner with respect to certain plots of lands, fully detailed in paragraph-1 of the writ petition, are based on disputed question of facts, which cannot be appropriately decided in a proceeding under Article 226 of the Constitution of Indian. It is well settled that disputed question of facts can be appropriately decided by a civil court of competent jurisdiction after recording evidence of the parties.

Though, learned counsel appearing on behalf of the petitioner submitted that some decree was passed in a Title Appeal No. 54 of 1985, but he has not been able to show that there was any declaration of title of the petitioner with respect to the lands under dispute. From reading of the aforesaid judgment dated 25th July, 1992 (Annexure-2), this Court finds that subject matter of decision in that Title Appeal was a deed of gift. It further appears that in that proceeding the private respondents were not impleaded as party respondents. Therefore, the aforesaid judgment and decree is of no help to the petitioner in the present proceeding.

For the reasons recorded above, this writ petition has to fail and is accordingly, dismissed.

However, the petitioner, if so advised, shall be at liberty to approach the civil court of competent jurisdiction for getting his right, title and possession declared over the lands in question after impleading the private respondents and all other necessary parties.

(Birendra Prasad Verma, J)

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