

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11295 of 2009

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Surendra Kumar, son of Sri Ram Khelawan Prasad, resident of Mohalla- New Area
Nawadah, P.S.- Nawadah Sadar, District-Nawadah

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Land and Revenue, Government of Bihar, Patna.
2. The District Magistrate, Nawadah
3. The Deputy Collector Land Reforms, Nawadah
4. The Circle Officer, Nawadah, Block-Nawadah, District- Nawadah
5. Saurabh Suman, wife of Sri Rajendra Prasad, resident of village- Seva Nagar, Budhaul, P.S. + District-Nawadah; at present residing at Mohalla-Ram Nagar, Nawadah, P.S.+ District-Nawadah

.... Respondents

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Appearance :

For the Petitioner/s : MR. ANIL KUMAR JHA, SR. ADV.
MR. ARUN KUMAR, ADV.
For the State : MR. GYAN SHANKAR, A.C. to G.P.-6
For the Respondent/s : MR. J.J. ARORA, ADV.
MR. P.K. VERMA, ADV.
MR. GOPAL BOHRA, ADV.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 01-05-2015

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

In this case, the petitioner is challenging the order dated
15.07.2009 passed by the District Magistrate, Nawadah in Mutation
Revision Case No. 57(R)/08/29(R)/09. As it appears that the
petitioner has purchased 31 decimal of land from Tertari Noniyan
and Tulsi Nonia whereas the respondent no. 5 had purchased 78
decimal of land from Bharti Srivastava and Savitri Srivastava has
filed Mutation Case No. 70/95-96 and 73/95-96 respectively and in



pursuance thereof an order dated 17.10.1995 was passed, as claimed by the respondent no. 5 that she has purchased the land of Bharti Srivastava and Savitri Srivastava in the year 2004. This Court is not examining the title of any of the parties, as already a suit is pending before the Civil Court vide Title Suit No. 170 of 2009. The appellate court has recorded a finding in favour of the petitioner that became the subject matter of challenge before the revisional court as mentioned hereinabove. The revisional court set aside the order which is under consideration before this Court. Plea has been taken that it was barred by limitation of ten days and more. Without condoning the delay by the revisional authority, he should not have entered into the merits of the case. A dispute arose of participation of Saurabh Suman before the appellate authority. The claim has been made by the petitioner that though she was not made party but represented herself through her advocate by filing a Vakalatnama and filed attendance, which was seriously disputed by Saurabh Suman, the matter was sent for enquiry. From enquiry report, it appears that respondent no. 5, Saurabh Suman had participated in the proceeding before appellate court.

This Court is not dealing with the aspect of the matter with regard to the adverse finding of the enquiry report nor considering the case on merit. There is a delay of ten days and more



claimed by petitioner in filing Revision Petition, and Revisional Court without considering delay entered into the merit of case and decided against petitioner. The aforesaid plea is only sheet-anchor of challenge by the petitioner. This Court is not dealing with right, title of any of the parties. It is well known principle of law that entry made in the revenue record does not create any right in favour of any of parties or to advantage or disadvantage any of the party. Even if the entries are made, it is only limited for the purposes of deposit of revenue to the State and not otherwise. As this Court has recorded that the suit is pending, the right, title will only be decided in a civil suit, not otherwise. As this Court accepts the plea of the petitioner that there is delay of ten days at least, the matter is set aside and remanded back to the revisional court. This Court is not giving any opinion on the merits of the case and respondent no. 5 will be at liberty to raise all the points including the points raised before this Court about the limitation in filing appeal by petitioner, as she has claimed that the appeal was filed after twelve years and has also claimed that the petitioner cannot claim more than 31 decimal whereas the appellate authority has passed the order with regard to 78 decimal of land.

Accordingly, revisional court is directed to decide the case in accordance with law with liberty to the respondent no. 5 that

she will file appropriate limitation petition for condonation of delay. The revisional court is at liberty to pass order in limitation petition, on merits of the case in accordance with law. This order has been passed by this Court only for the purposes of remanding the case and not otherwise and it will not be used as a weapon by either of the parties.

The Title Suit is pending since 2009. Both the parties are directed to co-operate in disposal of the case and the court below will dispose of the matter without granting unnecessary adjournment to any of the parties and preferably within nine months from the date of receipt/production of a copy of the order.

The writ application is disposed off with the aforesaid observations and directions.

(Shivaji Pandey, J.)

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