

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14683 of 2010

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Kailash Prasad S/O Late Bishnu Bhagat R/O Vill.- Pakari, P.O. And P.S.-
Manjhaulia, Distt.- West Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. Collector, West Champaran at Bettiah, Distt.- West Champaran
3. Additional Collector West Champaran at Bettiah, Distt.- West Champaran
4. Sub-Divisional Officer, Bettiah, Distt.- West Champaran
5. Circle Officer, Manjhaulia, Distt.- West Champaran
6. Anil Kumar Baitha S/O Kamal Baitha R/O Vill.- Hari Pakari, P.O. and P.S.-
Majhaulia, Distt.- West Champaran
7. Mina Devi W/O Late Sudhakar Baitha R/O Vill.- Hari Pakari, P.O. and P.S.-
Majhaulia, Distt.- West Champaran
8. Rahul Baitha Minor S/O Late Sudhakar Baitha, under the Guardianship of their
Mother Mina Devi R/O Vill.- Hari Pakari, P.O. and P.S.- Majhaulia, Distt.- West
Champaran
9. Bittu Baitha Minor S/O Late Sudhakar Baitha, under the Guardianship of their
Mother Mina Devi R/O Vill.- Hari Pakari, P.O. and P.S.- Majhaulia, Distt.- West
Champaran
10. Satya Kumar Minor D/O Late Sudhakar Baitha under the Guardianship of Their
Mother Mina Devi R/O Vill.- Hari Pakari, P.O. and P.S.- Majhaulia, Distt.- West
Champaran

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Shekhar Dvivedi, Sr.Advocate
Mr.Ranjan Kumar Dubey, Advocate
Ms.Sangeeta Sharma, Advocate
Mr.Rakesh Chandra, Advocate
Mr.Satendra Shukla, Advocate
Mr.Parth Gaurav, Advocate

For the Respondent Nos. 1 to 5 : Mr. Sanjay Prakash Verma, AC to GA 1

For the Respondent Nos.6 to 10: Dr. Amrendra Kumar No.1, Advocate
Mr.Ravi S.Pankaj, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 21-12-2015

Heard the parties.

2. The petitioner has filed the present writ petition under
Article 226 of the Constitution of India assailing the validity and
correctness of the order dated 16.09.2009 passed in Settlement Appeal



Case No. 59 of 2006-07 by the respondent Additional Collector, West Champaran, Bettiah, as contained in Annexure-1, whereby the aforesaid appeal preferred on behalf of the petitioner has been dismissed and the order dated 26.05.2000 passed by the respondent SDO, Bettiah in Settlement Case No. 55 of 2000-01, as contained in Annexure-2, has been affirmed.

3. The learned senior counsel appearing on behalf of the petitioner submits that the petitioner is claiming his right, title and possession over plot no. 360/2, appertaining to khata no. 157, area 3 kathas 15 dhurs situate at village Hari Pakari, P.S.Majhulia, District West Champaran, Bettiah. According to him, the private respondent nos. 6 to 10 were settled three other plots, namely, 360/1, 202/1 and 202/3 in the aforesaid Settlement Case No. 55 of 2000-01 initiated by Anchal Adhikari, Majhulia and finally approved by the SDO, Bettiah by order dated 26.05.2000. According to him, though the settlees i.e. the respondent nos. 6 to 10 have no concern with respect to plot no. 360/2 belonging to the petitioner, yet on the basis of the order of settlement, they are creating obstruction in possession of the petitioner over the land purchased by him. According to him, the appellate authority has not gone into that aspect of the matter and has tried to make out a third case. Therefore, the order impugned is not sustainable in law.

4. The learned counsel appearing on behalf of the respondent nos. 6 to 10 has contested the matter. According to him, the lands bearing plot nos. 360/1, 202/1 and 202/3 were settled in favour of the private respondents by order passed by the respondent Anchal Adhikari, Manjhaulia, on 24.05.2000, which was approved by the respondent SDO, Bettiah by order dated 26.05.2000, as contained in Annexure-2. According to him, the petitioner has no right and title

with respect to these three plots; therefore, he cannot challenge the validity and correctness of the aforesaid settlement made in favour of the private respondents.

5. After having heard the parties and in view of the fair stand taken by the learned senior counsel appearing on behalf of the petitioner as also the learned counsel appearing on behalf of the respondent nos. 6 to 10, this Court finds that there is practically no dispute between the parties with respect to the lands claimed by them. If there is some dispute, the dispute is of boundary.

6. Indisputably, the petitioner is claiming his right and title only with respect to plot no. 360/2 and settlement in favour of respondent nos. 6 to 10 has been made with respect to other three plots namely, 360/1, 202/1 and 202/3, but this aspect of the matter was not taken into consideration by the respondent Additional Collector, West Champaran, Bettiah.

7. In above view of the matter, the impugned appellate order dated 16.09.2009 passed in Settlement Appeal Case No. 59 of 2006-07 by the respondent Additional Collector, West Champaran, Bettiah, as contained in Annexure-1, is hereby set aside and it is clarified that the possession of the petitioner shall remain confined only with respect to plot no. 360/2 and so far as the respondent nos. 6 to 10 are concerned, their claims shall remain confined only with respect to plot nos. 360/1, 202/1 and 202/3, which all have been indicated in the order of settlement, as contained in Annexure-2. If there is any dispute between the parties, the aggrieved person shall have liberty to approach the competent authority under the provisions of The Bihar Land Disputes Resolution Act, 2009 (in short, “the Act, 2009”) for settlement of boundary disputes in view of the provisions contained in Section 4 of the aforesaid Act, 2009.

8. The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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