

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.182 of 2012

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1. Sheo Pujan Singh
2. Deo Pujan Singh
Both sons of Late Ram Barat Singh
3. Rudra Pratap Singh, S/O Sheo Pujan Singh
All are R/O Village- Redia, P.O.- Telari, Police Station- Chenari, District -
Rohtas

.... Petitioner/s

Versus

1. The State Of Bihar
2. Collector, Rohtas, District - Rohtas at Sasaram
3. Land Reforms Deputy Collector, Sasaram, District- Rohtas
4. Lalsa Devi, W/O Sheo Mangal Singh, R/O Village- Dahrak, P.O. And
P.S.- Ramgarh, District- Kaimur At Bhabua
5. Dhananjay Singh, S/O Mundrika Singh, R/O Village- Redia, Police
Station- Chenari, District - Rohtas
6. Rudra Saran Kumar Singh
7. Rudra Kinkar Kumar Singh
8. Rausan Kumar Singh
All (6to8) sons of Deo Pujan Singh, R/O Village- Redia, Police Station-
Chenari, District - Rohtas

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Prasad Singh

For the Respondent nos.4&5 : Mr. Aditya Narayan Singh-I

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

9 14-09-2015 Heard learned counsel for the petitioners as also
learned counsel appearing on behalf of the respondent nos.4 and 5.
However, none appears on behalf of the respondent State of Bihar
and its functionaries i.e. the respondent nos.1 to 3, though the
name of learned State counsel is printed in the daily cause list.
None appears on behalf of the respondent nos. 6 to 8 either in spite
of valid service of notice on them.

The petitioners are aggrieved by the order dated
23.08.2011 passed in Land Dispute Case No.27 of 2011-12 by the
respondent D.C.L.R., Sasaram, as contained in Annexure-3,



whereby the petitioners were restrained from going over the lands in question till the disposal of the aforesaid case. The petitioners are also aggrieved by the final order dated 12.10.2011 passed in the aforesaid Land Dispute Case No.27 of 2011-12 by the respondent D.C.L.R., Sasaram, as contained in Annexure-5, whereby in exercise of his powers under Section 4 of the Bihar Land Disputes Resolution Act, 2009 (in short 'Act, 2009') the petitioners were restrained from going over the lands in question till the final disposal of the Title Suit No.90 of 1998 pending in the court of learned Sub-Judge-1st, Sasaram at Rohtas.

Learned counsel appearing on behalf of the petitioners submits that admittedly for the lands under dispute Title Suit No.90 of 1998 is pending between the parties before the competent Civil Court and in that case the petitioners at the one side and the respondent nos.4 and 5 at the other side, besides others, are parties. It is contended that in the aforesaid pending Title Suit the complex question of title is involved regarding the lands under dispute; therefore, during the pendency of the aforesaid Title Suit petition filed on behalf of the respondent nos.4 and 5 under the provisions of the Act, 2009 was not maintainable. It is further contended that after the interim order was passed on 23.08.2011 (Annexure-3), the petitioners filed a petition before the respondent D.C.L.R. questioning the maintainability of that case under the provisions of the Act, 2009, but by the impugned final order the interim order passed earlier was made absolute till the final disposal of the aforesaid Title Suit. According to him, since the question of right, title and possession, besides other issues regarding the lands under dispute, are subject matter of consideration in the aforesaid pending Title Suit, therefore, the

respondent D.C.L.R. ought not to have entertained the petition filed on behalf of the respondent nos.4 and 5 under the provisions of the Act, 2009. Hence, the impugned final order, as contained in Annexure-5, is not sustainable in law.

Learned counsel appearing on behalf of the respondent nos.4 and 5 has questioned the maintainability of the present writ petition, as the impugned final order, as contained in Annexure-5, is appealable before the Divisional Commissioner under Section 14 of the Act, 2009. Therefore, according to him, on that ground alone, the writ petition is liable to be dismissed.

After having heard the parties and on consideration of the materials available on record, this Court is of the opinion that in view of the pending Title Suit between the parties regarding lands in question, the respondent D.C.L.R. ought not to have passed the impugned interim order as contained in Annexure-3 or the impugned final order as contained in Annexure-5. He ought to have relegated the parties to the Civil Court in the pending Title Suit with liberty to raise all the issues regarding the lands in question. In the impugned final order dated 12.10.2011 the respondent D.C.L.R. has noticed that the Title Suit is pending between the parties with respect to the lands under dispute, yet, by way of interim order, he has restrained the petitioners from going over the lands in question till disposal of the aforesaid Title Suit. In the considered opinion of this Court, the respondent D.C.L.R. has exceeded his jurisdiction vested in him under the provisions of Section 4 of the Act, 2009.

For the reasons recorded above, it is observed that the parties shall be at liberty to raise all the issues of facts and law including the question of right, title and possession over the lands

in question in the aforesaid pending Title Suit in which admittedly they are the parties. Till the aforesaid Title Suit is finally disposed of by the Civil Court at Sasaram, the impugned order dated 23.08.2011 passed in Land Dispute Case No.27 of 2011-12 by the respondent D.C.L.R., Sasaram, as contained in Annexure-3, as also the impugned final order dated 12.10.2011 passed in the aforesaid Land Dispute Case No.27 of 2011-12 by the respondent D.C.L.R., Sasaram, as contained in Annexure-5, shall be kept in abeyance.

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

(Birendra Prasad Verma, J)

Arvind/-

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