

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19674 of 2014

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Sanjay Goswami, Son of Late Bhubneshwar Goswami, Resident of Village-
Jamuara P.S-Tekari, District-Gaya

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue & Land Reforms department ,Government of Bihar Patna
 2. The Collector, Gaya
 3. The Additional Collector, Gaya
 4. The Sub- Divisional Magistrate, Sadar,Gaya
 5. The Sub- Registrar, Gaya District-Gaya
 6. Anchal Adhikari, Manpur,Gaya
 7. Pankaj Manjhi Son of Raja Ram Manjhi
 8. Nitish Manjhi
 9. Manish Manjhi
 10. Chandan Manjhi
- Respodent No.8 to10 are sons of Rameshwar Manjhi All are R/o Vill.-
Kaiya, P.S-Manpur, District-Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Prasad Singh
For the Respondent nos.1to6: Mr. Prabhat Kumar, AC to GA-2

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 04-08-2015 When the matter has been taken up for consideration on merits, a supplementary affidavit on behalf of the petitioner is being filed stating therein that Bhubneshwar Goswami, father of the petitioner, died on 27.07.1997 leaving behind his heirs and legal representatives including the petitioner. Let the aforesaid supplementary affidavit be kept on record.

Learned AC to GA-2 appearing on behalf of the respondent nos.1 to 6 also files a counter affidavit on behalf of the respondent nos.2, 3, 4 and 6 after service of its copy upon the learned counsel appearing on behalf of the petitioner. Let the aforesaid counter affidavit be also kept on record.

Heard learned counsel for the petitioner and learned

AC to GA-2 appearing on behalf of the respondent nos.1 to 6.

The petitioner has filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the order/communication dated 19.02.2014 (Annexure-4) issued by the respondent District Collector, Gaya whereby a direction has been issued that the lands purchased by Bhubneshwar Goswami, the deceased father of the petitioner, through registered sale deed in the year 1970 be not mutated in favour of any person. By the aforesaid communication, the Sub-Registrar, Gaya has been directed not to register any sale deed with respect to the lands mentioned in that communication, which were purchased by the father of the petitioner.

Learned counsel appearing on behalf of the petitioner submits that the father of the petitioner died way back in the year 1997 and, after his death, he, besides others, has inherited the aforesaid property, being the son of the deceased Bhubneshwar Goswami. It has further been submitted that, before issuance of impugned restraint order, neither any opportunity of hearing was given nor any show cause notice was issued to the petitioner and his other family members. According to the learned counsel, the impugned order/communication, which is in the nature of a restraint order with respect to the lands in question for the purposes of mutation and/or for the purposes of transfer, is in teeth of principles of natural justice. Therefore, it is pleaded that on that ground alone, the impugned order/communication is liable to be set aside and quashed by this Court.

Learned State counsel appearing on behalf of the respondents, by referring to the averments made in the counter affidavit filed on behalf of the respondents nos.2, 3, 4 and 6,



submits that the matter is being enquired into as to whether Shubhadra Devi from whom Bhubneshwar Goswami is said to have purchased the lands in question was having right title and possession and, therefore, whether the aforesaid Bhubneshwar Goswami had acquired any legal right with respect to the lands purchased by him from aforesaid Smt. Subhadra Devi. However, in response to the query made by this Court, he has fairly conceded that, before issuance of impugned restraint order/communication, an opportunity of hearing was not given to the petitioner or his family members, but, according to him, the matter is being enquired into by the enquiring authority.

After having heard the parties and on consideration of the materials available on record, this Court is of the opinion that the matter requires reconsideration and fresh decision by the respondent District Collector, Gaya. Indisputably, the impugned restraint order has been issued against late Bhubneshwar Goswami, the father of the petitioner. The aforesaid Bhubneshwar Goswami is said to have died in the year 1997. Furthermore, before issuance of impugned restraint order with respect to the lands in question, neither any opportunity of hearing was given to the petitioner or his family members nor any show cause notice was issued to them. As such, on this ground alone, this Court is inclined to interfere with the impugned restraint order/communication dated 19.02.2014 (Annexure-4).

For the reasons recorded above, the impugned restraint order/communication dated 19.02.2014 (Annexure-4) issued by the District Collector, Gaya is hereby set aside and quashed and the matter is remitted back to him for passing a fresh order in accordance with law after giving an opportunity of

hearing to all concerned including the petitioner.

In order to expedite the matter, the petitioner is directed to appear before the District Collector, Gaya with a certified copy of the present order within one month from today, whereafter the respondent District Collector, Gaya shall be obliged to pass a fresh order. But before passing any final order, he shall further be obliged to give an opportunity of hearing to the petitioner, private respondent nos.7 to 10 and all other concerned persons.

In the result, the present writ petition stands allowed to the extent indicated above. However, the parties are left to bear their own costs.

(Birendra Prasad Verma, J)

Arvind/-

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