

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1145 of 2015

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Dashrath Yadav, son of Sahdeo Yadav, resident of village- Sosandi, P.S. Rahui,
District Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate cum Collector, Nalanda.
3. The Additional Collector, Nalanda.
4. The Deputy Collector, Land Reforms, Bihar Sharif, Nalanda.
5. The Circle Officer, Rahui, Nalanda.
6. The Member (Judicial), Bihar Land Tribunal, Patna , Bihar.
7. Sharan Yadav, son of Late Nathun Yadav, resident of village- Sosandi, P.S. Rahui, District Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sudhir Kumar

For the Respondent/s : Mr. Jawahar Prasad Karn, AAG-IV

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 13-07-2015

Heard Mr. Sudhir Kumar, learned counsel appearing on
behalf of the petitioner and Mr. Jawahar Prasad Karn, learned
Additional Advocate General No. IV for the State.

The petitioner is aggrieved by the order dated 21.6.2013
passed by the Bihar Land Tribunal, Patna in BLT Case No.318 of
2013, whereby the learned Member (Judicial) while refusing to
interfere with the order dated 28.2.2013 passed by the Additional
Collector, Nalanda in Mutation Revision Case No.01 of 2011-12,
has dismissed the case filed by the petitioner holding that the final
orders passed by the statutory authorities on the matter would be
subject to the final outcome of the pending proceedings in Title Suit

No.60 of 2002 so filed by the petitioner for declaration of right, title and interest in the land in question.

The facts of the case briefly stated is that the land in question, the details of which are given in paragraph no.3 of the writ petition, is claimed to have been purchased by the petitioner from the land owner namely, Nanhak Mistry vide registered sale-deed dated 23.1.2001. Following the purchase mutation has taken place and account opened, the evidence of which is placed at Annexure-2. The claim of the petitioner has been contested by the respondent no.7, inter alia, on grounds that the land in question was earlier sold by said Nanhak Mistry, the land owner in favour of his son-in-law Ram Kishun Mistry vide a registered sale-deed dated 28.10.1994 and the vendee Ram Kishun Mistry by a subsequent sale-deed executed on 7.7.2003 has transferred the land in his favour. In this background that he filed an application for creation of jamabandi before the Circle Officer, Rahui, district- Nalanda giving rise to Case No.15 of 2008-09 which was dismissed vide order passed on 22/26.8.2008, a copy of which is placed at Annexure-3 to the writ petition. The respondent no.7 questioned the decision of the Circle Officer in Mutation Appeal No. 18 of 2008 which also was dismissed by the Deputy Collector, Land Reforms vide order passed on 17.1.2011 placed at Annexure-4 and being

aggrieved he preferred Mutation Revision Case No.01 of 2011-12 which was allowed by the Additional Collector –cum- Additional District Magistrate vide order passed on 28.2.2013 considering the documents on record.

In between it is stated that the land owner Nanhak Mistry preferred Title Suit No.55 of 2000 seeking to declare the sale-deed dated 28.10.1994 stated to have been executed by him in favour of Ram Kishun Mistry, as illegal and void but the same was dismissed for default. A second suit filed by the petitioner to the same effect also having been dismissed for default, has since been restored and is pending in Title Suit No.60 of 2002. The Additional Collector considering the registered sale deed dated 28.10.1994 executed in favour of Ram Kishun Mistry and the subsequent sale-deed executed by Ram Kishun Mistry in favour of respondent no.7 on 7.7.2003 as well as the rent-receipts issued in favour of Ram Kishun Mistry for the period 2000-01 upheld the claim of the private respondent to direct the Circle Officer to open an account in his name and to issue receipt. The Tribunal considering these circumstances has dismissed the application filed by the petitioner in BLT Case No.318 of 2013 holding that the finding of the revenue authorities would be guided by the final outcome of Title Suit No.60 of 2002 so filed at the instance of the writ petitioner.



I have heard Mr. Sudhir Kumar, learned counsel appearing on behalf of the petitioner and Mr. Jawahar Prasad Karn, learned Additional Advocate No.IV and I have perused the materials on record.

Although it has been strenuously argued by Mr. Sudhir Kumar that the facts available on record are drawn in his favour but I would not comment on the assertion of learned counsel for any opinion by this Court at this stage would prejudicially and adversely affect the claim of the contesting parties in the title suit.

From the uncontroverted position as available on record it is manifest that a sale-deed was executed in favour of Ram Kishun Mistry on 28.10.1994 by Nanhak Mistry i.e. much prior to the execution of the sale-deed in favour of the writ petitioner on 23.1.2001. The second evidence considered by the revisional authority is the rent-receipts issued in favour of Ram Kishun Mistry consequent upon execution of such sale-deed on 28.10.1994 which is for the period 2000-01 which is again before the date of execution of the sale-deed in favour of the writ petitioner on 23.1.2001.

Whether or not the sale-deed executed in favour of Ram Kishun Mistry dated 28.10.1994 is genuine, is an issue yet to be decided by the Civil Court in Title Suit No.60 of 2002. The Land Tribunal being conscious of this position has disposed of the matter

with observation that the decision of the revenue authorities would be subject to final outcome of the title suit so filed by the petitioner. In my opinion, in the circumstances existing as discussed above where the sale-deed dated 28.10.1994 is yet to be adjudicated by the Civil Court, there would be no infirmity in the opinion expressed by the Land Tribunal warranting any interference at this stage and the writ petition is accordingly disposed of.

(Jyoti Saran, J)

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