

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17897 of 2008

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Bibi Akhtari Khatoon wife of late Md. Kalimuddin, resident of Abdulpur,
P.O. Rafiganj P.S. Rafiganj, District- Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Aurangabad.
3. The D.C.L.R. (Deputy Collector Land Reforms), Aurangabad.
4. The Circle Officer, Aurangabad.
5. The Assistant Superintendent of Survey, Rafiganj Block, District Aurangabad.
6. The Superintendent of Survey, Gaya.
7. The Surveyer cum Amin Anchal, Rafiganj, District Aurangabad.
8. Md. Sakil Ahmad son of late Jamil Ahmad, resident of village Abdulpur, P.O.+ P.S. Rafiganj, District Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanat Kumar Mishra

For the Respondent No.1 to 7: Mr. Shashi Shekhar Pd. Sinha, AC to GA-13

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 07-04-2015 Heard the parties.

The matter at issue is the claim of right, title and possession of the parties with respect to plots of land bearing Khata No.36, old plot no. 208 and 211, area 3 ½ situate at Nagar Parishad, Rafiganj in the district of Aurangabad.

By the impugned appellate order dated 28.08.2008 (Annexure-6) passed by the respondent Municipal Survey Superintendent, the claim of the petitioner with respect to the lands under dispute has been rejected and that of the respondent no. 8 has been accepted.

Learned counsel appearing on behalf of the petitioner submits that while passing the impugned order all the relevant documents/ materials produced by the petitioner with respect to the lands under dispute have not been taken into consideration and, therefore, the order impugned is bad in law.

Taking into consideration the nature of dispute between the parties i.e. the petitioner vis a vis the respondent no.8, relating to their respective claims of right, title and possession over the lands under dispute, this Court is of the considered opinion that the issues of right, title and possession cannot be properly and effectively decided in the present proceeding filed under Article 226 of the Constitution of India. The claims of the parties regarding their right, title and possession regarding the lands under dispute can be effectively gone into by the civil court of competent jurisdiction, after looking into the evidence/ materials produced by the parties.

In above view of the matter, the present writ petition is disposed of with a liberty to the petitioner to approach the civil court of competent jurisdiction for grant of appropriate reliefs with respect to the lands under dispute. If such a civil suit is filed on behalf of the petitioner, then the same shall be considered and decided strictly in accordance with law after looking into the evidence/ materials produced by the parties, but without being prejudiced by the rejection of the present writ petition.

(Birendra Prasad Verma, J)

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