

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3659 of 2013

=====

1. Arvind Kumar Singh , S/O - Surendra Prasad Singh
2. Surendra Prasad Singh, S/O - Late Hari Shankar Prasad Singh
Both Resident of Village - Ahirouliya, P.S. Chakia Distt - East Champaran,
Motihari

.... Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Govt. Of Bihar Patna
2. The Distt. Magistrate, East Champaran Motihari
3. The Addl. Collector, East Champaran Motihari
4. The Dy. Collector Land Reforms, Chakia, East Champaran Motihari
5. Umesh Prasad Singh, S/O - Late Umashankar Prasad Singh, Resident Of
Village - Ahirouliya, P.S. Chakia Distt - East Champaran, Motihari

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Mukesh Kumar No.-1, Adv.
For the Respondent nos.1to4 : Mr. Manish Kumar, AC to SC-6
For the Respondent no.5 : Mr.Ramakant Sharma, Sr.Adv.
Mr.Rajesh Kumar, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 05-11-2015

Heard the parties.

The petitioners have approached this Court under Article 226 of the Constitution of India assailing the validity and correctness of the order dated 30.01.2013 passed in Land Dispute Resolution Case No.56 of 2012-13 by the respondent D.C.L.R., Chakiya, as contained in Annexure-3, whereby the petition filed on behalf of the respondent no.5 under Section 4 of The Bihar Land Disputes Resolution Act, 2009 (in short 'Act, 2009') has been allowed with certain directions.

It is not in dispute that the petitioners and the respondent no.5 are descendants of their common ancestor. It is also not in dispute that the Title (Partition) Suit No.118 of 1988/177 of 1991 was decided by a Civil Court of competent jurisdiction in which both sides were parties, besides others. A copy of the aforesaid decree has been brought on record as

Annexure-1 to the writ petition.

Learned counsel appearing on behalf of the petitioners submits that the respondent D.C.L.R., Chakia while passing the impugned order dated 30.01.2013 has gone beyond the decree passed by the Civil Court and, therefore, on that ground alone, the impugned order is liable to be set aside by this Court. He further submitted that the impugned order is also contrary to the ratio laid down by a Division Bench of this Court in the case of Maheshwar Mandal Vs. The State of Bihar [2014(3) PLJR 281]. According to him, by the impugned order, the respondent D.C.L.R., Chakiya has tried to declare the title of the parties over the disputed lands.

Per contra, learned senior counsel appearing on behalf of the respondent no.5 has supported the impugned order. According to him, the respondent D.C.L.R., Chakiya has merely tried to correct the schedule allotted to the different parties in the aforesaid partition suit. Therefore, according to him, it was well within the jurisdiction of the D.C.L.R., Chakia, while exercising his powers under Section 4 of the Act, 2009, to pass the impugned order.

Though, the learned counsel appearing on behalf of the petitioners and the learned senior counsel appearing on behalf of the respondent no.5 have addressed the Court on various other issues/claims of the parties regarding the lands under dispute, but finally both of them agreed that the matter may be remitted back to the respondent D.C.L.R., Chakiya with a direction to decide the case afresh by taking into consideration the judicial pronouncement of this Court in the case of Maheshwar Mandal Vs. The State of Bihar (supra).

After having heard the parties and taking into consideration the factual matrixes of the case, and further taking into consideration the judicial pronouncement of this Court in the case of Maheshwar Mandal Vs. The State of Bihar (supra), this Court is of the opinion that the entire matters require re-consideration and fresh decisions by the respondent D.C.L.R., Chakiya. Accordingly, the impugned order dated 30.01.2013 passed in Land Dispute Resolution Case No.56 of 2012-13 by the respondent D.C.L.R., Chakiya, as contained in Annexure-3, is hereby set aside and quashed and the matter is remitted back to the respondent D.C.L.R., Chakiya with a direction to decide the aforesaid case afresh after giving an opportunity of hearing to both sides, besides others, if any.

In order to expedite the matter, the petitioners as also the respondent no.5 are directed to appear before the respondent D.C.L.R., Chakiya within a period of one month from today with a certified copy of the present order, whereafter he shall fix a firm date for deciding the aforesaid matter afresh strictly in accordance with law.

It is clarified that the parties shall be at liberty to raise all the issues of facts and law, which may be available to them with respect to the lands under dispute.

In the result, the writ petition stands allowed to the extent indicated above, but with the observations and directions made above. The parties are left to bear their own costs.

Arvind/-

(Birendra Prasad Verma, J)

U			
---	--	--	--