

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3317 of 2013

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1. Most. Sonia Devi, Wife Of Late Jagdish Mahto
2. Anil Mahto
3. Rajendra Mahto
4. Sunil Mahto
Petitioner nos.2 to 4 are Sons Of Late Jagdish Mahto
All Resident Of Village Bedauli, P.O. Jamunia, Police Station Subhadra,
District West Champaran

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Collector, West Champaran At Bettiah, District West Champaran
3. The Deputy Collector Land Reforms, Narkatiaganj P.O. And Police
Station Narkatiaganj, District West Champaran
4. The Circle Officer, Gaunaha, P.O. Gaunaha Block And Police Station
Gaunaha, District West Champaran
5. The Officer Incharge Of Subhadra Police Station P.O. Jamunia, P.S.
Subhadra, District - West Champaran
6. Shambhu Sah Son Of Late Isharman Sah Resident Of Village Bairia, P.O.
D.K. Sikarpur, Police Station Sikarpur, District West Champaran
7. Prabhu Sah Son Of Late Isharman Sah Resident Of Village Bairia, P.O.
D.K. Sikarpur, Police Station Sikarpur, District West Champaran
8. Mahesh Sah Son Of Late Isharman Sah Resident Of Village Bairia, P.O.
D.K. Sikarpur, Police Station Sikarpur, District West Champaran
9. Gorakh Sah Son Of Late Rajdeo Sah Resident Of Village Malda, P.O.
D.K. Sikarpur, Police Station Sikarpur, District West Champaran
10. Subhash Sah Son Of Late Rajdeo Sah Resident Of Village Malda, P.O.
D.K. Sikarpur, Police Station Sikarpur, District West Champaran
11. Pramod Sah Son Of Late Rajdeo Sah Resident Of Village Malda, P.O.
D.K. Sikarpur, Police Station Sikarpur, District West Champaran

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pandit Jee Pandey
Mr. Nawnit Kumar Tiwary
For the Respondent nos.1to5 : Mr. Dinbandhu Singh, GP-9
Mr. Satyeshwar Prasad, AC to GP-9
For the Respondent nos.6 to11 : Mr. Ram Bali Jha, Adv.
Mr.Nesar Ahamd
Mr.Mritunjay Kumar

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 03-11-2015

Heard the parties.

The petitioners are essentially aggrieved by the

communication dated 07.08.2012 contained in letter no.443 issued by the respondent Circle Officer, Gaunaha in the district of West Champaran (Annexure-14), whereby the officer in-charge of local police station, Subhadra has been directed to ensure possession of the private respondent no.8 and others on the lands under dispute purportedly in the light of the order passed by the respondent D.C.L.R., Narkatiyaganj in Case No.31 of 2011-12 under the provisions of The Bihar Land Disputes Resolution Act, 2009 (in short 'Act, 2009').

Learned counsel appearing on behalf of the petitioners submits that the private respondents had filed a petition before the respondent D.C.L.R., Narkatiyaganj under Section 4 of the Act, 2009, which gave rise to Case No.31 of 2011-12, but the aforesaid proceeding was finally dropped by the order dated 27.09.2011 (Annexure-13) on the ground that the dispute between the parties is pending in the higher Court.

The grievance of the petitioners is that despite dropping of the aforesaid proceeding by the aforesaid order dated 27.09.2011 (Annexure-13), the respondent Anchal Adhikari, Gaunaha by the impugned letter dated 07.08.2012 (Annexure-14) has directed the local police to ensure possession of the private respondents over the lands under dispute.

Learned State counsel appearing on behalf of the respondent nos.1 to 5 as also learned counsel appearing on behalf of the respondent nos.6 to 11, though have opposed the prayer made on behalf of the petitioners, but have fairly conceded that the respondent D.C.L.R., Narkatiyaganj has dropped the proceeding of Case No.31 of 2011-12 on the ground of pendency of a litigation between the parties in the higher Court.

After having heard the parties and taking into consideration the materials available on the record, this Court finds that, indisputably, the claim of the parties regarding the lands in question was not determined by the respondent D.C.L.R., Narkatiyaganj in Case No.31 of 2011-12, since the matter is pending before the higher Court, yet by the impugned communication dated 07.08.2012 (Annexure-14), the respondent Anchal Adhikari, Gaunaha has issued direction for ensuring possession of the private respondents over the lands in question, which cannot be sustained in law.

For the reasons recorded above, the impugned communication contained in letter no.443 dated 07.08.2012 (Annexure-14) issued by the respondent Anchal Adhikari, Gaunaha is hereby set aside and quashed. However, the parties shall be at liberty to get their claim regarding lands in question adjudicated by the competent authority/court in accordance with law.

It is clarified that, if any lis is still pending between the parties in any higher forum/court, then they shall be at liberty to raise all the issues of facts and law, which may be available to them with respect to the lands in question, before that forum/court.

The writ petition stands allowed to the extent indicated above.

Arvind/-

(Birendra Prasad Verma, J)

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