

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15338 of 2011

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1. Bhutela Sah
2. Singasan Sah
3. Shrivnath Sah
4. Bhagrasan Sah
5. Swaminath Sah
All sons of Late Bhirjhan Teli, R/O Village- Banjari, P.O. + P.S. and Distt.-
Gopalganj

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, District - Gopalganj
3. The Office Secretary, Bhoodan Yagna Committee, Arar More Gopalganj, P.S. and Distt.- Gopalganj (Bihar)
4. The Bihar Bhoodan Yagna Committee, Congress Maidan, Kadamkuan, Patna-4, through its Chairman.
5. The Chairman, Bihar Bhoodan Yagna Committee, Congress Maidan, Kadamkuan, Patna-4
6. Gangdayal Yadav S/O Late Munar Yadav, R/O Vill.- Amwa, Distt.- Gopalganj, at Present Informant of Baibhav Hotel, Near Post Office Chawk, P.S. and Distt.- Gopalganj
7. Rajaram Yadav S/O Late Manan Yadav R/O Village - Amwa, P.S. and Distt.- Gopalganj
8. Ramdayal Yadav S/O Late Munar Yadav, R/O Village - Amwa, P.S. and Distt.- Gopalganj
9. Raj Kumar Prasad S/O Tilak Prasad, R/O Vill.- Amwa, P.S. & Distt.- Gopalganj- Gopalganj
10. Manoj Bhagat S/O Brahmdeo Bhagat, R/O Vill.+ Amwanakshed P.S. &, Distt.- Gopalganj.
11. Raj Ballabh Yadav S/O Gangeshwar Yadav, R/O Vill.+ Amwanakshed P.S. &, Distt.- Gopalganj.

.... Respondent/s

with

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Miscellaneous Jurisdiction Case No. 2444 of 2012

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Bhutela Sah & Ors.

.... Petitioner/s

Versus

The State of Bihar & Ors.

.... Opp. Party/s

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Appearance :

(In CWJC No. 15338 of 2011)

For the Petitioner/s	:	Mr. Chandra Kant Mr. Umesh Kumar Singh
For the Respondent No.3 to 5 :		Mrs. Alka Verma
For the Respondent No.6 to 8 :		Mr. Shashi Shekhar Dwivedi, Sr. Adv. Mr. Ranjan Kumar Srivastava

For the Respondent No. 9 to 11 : Mr. Rajeshwar Prasad
(In MJC No. 2444 of 2012)
For the Petitioner/s : Mr. Chandra Kant
Mr. Umesh Kumar Singh
For the Opp. Party/s : Mrs. Alka Verma

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT
Date: 07-09-2015

Reg. : C.W.J.C. No. 15338 of 2011

Heard the parties.

2. The petitioners, who are sons of late Brijhan Teli, have filed the present writ petition under Article 226 of the Constitution of India with a prayer for quashing the Praman Patra (certificate) issued by the respondent Bihar Bhoodan Yagna Committee and/or its functionaries in favour of respondent no. 6 to 8 with respect to a plot of land bearing khata no. 107 plot no. 545/1 area 50 decimals situate at village Banjari in the district of Gopalganj (In short 'the land in question'). They have also prayed for issuance of a direction restraining the respondents from creating any hindrance in the use/possession of the petitioners over the lands in question.

3. It is not in dispute that the respondent Bihar Bhoodan Yagna Committee had allotted 50 decimals of land of aforesaid plot no. 545/1 to Brijhan Teli, the father of the petitioners, under the provisions of The Bihar Bhoodan Yagna Act, 1954 (In short 'Act, 1954') and, accordingly, Praman Patra was issued in his favour on 08.05.1958, which has been brought on record as Annexure-1 to the writ petition.

4. Learned counsel appearing on behalf of the petitioners submits that in view of recognition of their father Brijhan Teli as Bhoodan Kishan with respect to the lands in question by issuance of Praman Patra dated 08.05.1958 (Annexure-1), their father remained in



continuous possession over the same, and after his death, the petitioners, being his heirs and legal representatives, inherited the aforesaid lands in question and they remained in continuous possession over the same. However, the grievance of the petitioners is that without issuance of any show cause notice to them, the Praman Patra issued way back on 08.05.1958 was subsequently cancelled by the respondent no. 3 to 5. Thereafter, the lands in question was given in exchange to one Munar Yadav, father of respondent no. 6 to 8, whereafter, exchanged lands were settled in favour of private respondent no. 9 to 11. According to him, the impugned action of the respondent Bhoodan Yagna Committee and its functionaries and all other consequential actions taken with respect to the lands under dispute are in teeth of the rules of natural justice; therefore, it cannot be sustained in law.

5. The matter has been contested by the learned counsel appearing on behalf of the respondents. Learned counsel appearing on behalf of the respondent Bhoodan Yagna Committee and its functionaries, i.e. respondent no. 3 to 5, by referring to the averments made in the counter-affidavit as also supplementary counter-affidavit filed on behalf of the respondent no.5, submitted that settlement made in favour of the father of the petitioners under section 11 of the Act, 1954 was cancelled on 30/31.10.2000 on account of death of Brijhan Teli, as his heirs and legal representatives had left the place, where the lands in question is situate. Thereafter, the respondent Bihar Bhoodan Yagna Committee had entered into an agreement for exchange of the lands in question with certain other lands of one Munar Yadav, father of respondent no. 6 to 8, which were subsequently redistributed amongst deserving poor persons, i.e. respondent no. 9 to 11. She contended that after following the



procedures, 86 decimals of land was distributed amongst three deserving poor persons, namely, respondent no. 9 to 11. According to the learned counsel, since the lands in question has already been re-distributed, therefore, the petitioners have no cause of action. . However, she has fairly conceded that the petitioners happen to be the sons of aforesaid Brijhan Teli. Furthermore, despite repeated queries, she has not been able to show from any documents that before taking impugned action for cancellation of Praman Patra issued in favour of father of the petitioners, any opportunity of hearing was given to the petitioners or any other heirs and legal representatives of aforesaid Birjhan Teli and/or they were actually heard.

6. Learned senior counsel appearing on behalf of the respondent no. 6 to 8 and the learned counsel appearing on behalf of the respondent no. 9 to 11 have opposed the prayer made on behalf of the petitioners in the present writ petition and have supported the impugned action. It was contended by them that by communication dated 08.11.2000 (Annexure-A to the counter-affidavit filed on behalf of the respondent no.6) the Circle Officer, Gopalganj was communicated about cancellation of Praman Patra issued in favour of the father of the petitioners and thereafter consequential actions were taken by the respondent Bhoodan Yagna Committee for exchange of the lands in question with 86 decimals of the lands offered by Munar Yadav, the father of respondent no. 6 to 8. It is also contended that later on fresh Praman Patra was issued in favour of respondent no. 9 to 11 for settlement of exchanged lands. Learned senior counsel appearing on behalf of the respondent no. 6 to 8 has alternatively submitted that the matter may be remitted/ transferred to the learned Bihar Land Tribunal, Patna.

7. After having heard the parties and on consideration of the



materials available on record, this Court is of the considered opinion that entire matter requires re-consideration and fresh decision by the Chairman of the respondent Bihar Bhoodan Yagna Committee. Indisputably, Praman Patra for the lands in question was issued in favour of the father of petitioners way back on 08.05.1958. If for any reason the respondent Bhoodan Yagna Committee wanted to cancel the aforesaid Praman Patra, as has been pleaded by the respondent no. 5 in his counter-affidavit, then opportunity of hearing was required to be given either to the original settlee or after his death, his heirs and legal representatives. It is not in dispute that the petitioners are heirs of the original settlee Brijhan Teli. In the counter-affidavit filed on behalf of the respondent no.5 as also respondent no.6 it has nowhere been stated that any show cause notice was issued either to the original settlee or to the present petitioners, being his heirs and legal representatives, before passing the order of cancellation of Praman Patra in question. Apparently, there has been violation of rules of natural justice, which goes to the root of the matter.

8. Since the order of cancellation was passed way back in the year 2000 in violation of the rules of natural justice and settlement/ exchange of the lands in question in favour of the private respondents were made in the year 2000-2001, when the learned Bihar Land Tribunal, Patna was not even conceived, therefore, this matter is not required to be transferred/remitted to the learned Bihar Land Tribunal, Patna or petitioners are not to be relegated to the learned Tribunal. Hence, the submissions made by the learned senior counsel appearing on behalf of the respondents No. 6 to 8 to this effect are hereby rejected.

9. In above view of the matter, all the actions taken and/or the order(s) passed with respect to the lands in question on

30/31.10.2000 or thereafter for cancellation of Praman Patra issued in favour of the father of the petitioners or settlement/ exchange of the lands in question in favour of Munar Yadav, father of the respondent nos. 6 to 8 or in favour of the other private respondents are hereby set aside and quashed, and the matter is remitted back to the respondent Chairman, Bihar Bhoodan Yagna Committee with a direction to pass a fresh order in accordance with law after giving an opportunity of hearing to all concerned including the petitioners as also the respondent no. 6 to 11.

10. For the reasons recorded above, the writ petition stands allowed to the extent indicated above and the matter is remitted back to the Chairman, Bihar Bhoodan Yagna Committee, Patna with a direction to decide the entire matter afresh after giving an opportunity of hearing to all the parties.

11. The parties shall be at liberty to raise all the issues of facts and law, which may be available to them.

12. In order to facilitate early disposal of the matter, the petitioners as also the respondent no. 6 to 11 are hereby directed to appear before the Chairman, Bhoodan Yagna Committee, Bihar, Patna within a period of one month from today with a certified copy of the present order. Thereafter, the respondent Chairman, Bhoodan Yagna Committee shall fix a firm date for giving them an opportunity of hearing and shall pass appropriate fresh order with respect to the land in question strictly in accordance with law.

13. The parties are left to bear their own costs.

Reg. : M.J.C. No. 2444 of 2012

Before parting with the present records, this Court finds that the petitioners had filed M.J.C. No. 2444 of 2012 for initiation of a contempt proceeding against some of the respondents for alleged

violation of the order dated 08.11.2011 passed by a Bench of this Court. Though the records of aforesaid M.J.C. has not been placed by the Registry, yet the aforesaid M.J.C. is on Board for the last several dates.

Learned counsel appearing on behalf of the petitioners, in view of the order passed in the main writ petition today, seeks permission to withdraw the aforesaid M.J.C. application.

Permission is accorded.

Accordingly, the M.J.C. No.2444 of 2012 stands disposed of as withdrawn.

(Birendra Prasad Verma, J)

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