

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1948 of 2015

In

Civil Writ Jurisdiction Case No. 3115 of 2015

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Shailesh Maharaj S/o Mr. Diwakar Maharaj Kavi R/o P.O. Alamnagar P.S.
Alamnagar District- Madhepura

.... Appellant

Versus

1. The State of Bihar
2. The District Magistrate, Madhepura
3. The Additional District Magistrate, Madhepura
4. The Sub-Divisional Officer, Uda Kishunjung Madhepura
5. The Circle Officer, Alamnagar Madhepura
6. The Circle Inspector, Alamnagar Madhepura
7. Mr. Ram Gopal Pansaria S/o Late Manilal Pansaria R/o P.O. Alamnagar P.S. Alamnagar District- Madhepura
8. Mr. Prashant Kumar S/o Radheyshyam Pansarria R/o P.O. Alamnagar P.S. Alamnagar Distr Madhepura.

.... Respondents

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Appearance :

For the Appellant : Mr. Sanjeev Kumar Mishra, Advocate

For the Respondents : Mr. Manju Nath, AC to AAG 3

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
ORAL ORDER
(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

2 23-11-2015

Aggrieved by the order passed by a learned
Single Judge of this Court, dated 2.9.2015, in CWJC No. 3115
of 2015, the present appeal under Clause 10 of the Letters
Patent of this Court has been filed. By the order under

appeal, a learned Single Judge has dismissed the writ application, which was filed by the appellant, seeking quashing of an order, dated 7.11.2014, passed by the District Magistrate, Madhepura, and subsequent order, dated 5.12.2014, passed by the Sub Divisional Officer, Madhepura.

2. This is not in dispute that one of the co-sharers of the appellant had sold 11 decimals of land in favour of the private respondents and on the strength thereof, the land was mutated in favour of respondent No. 7. The appellant had preferred a revision petition against the order mutating the name of respondent No. 7 with respect of the land in question. Respondent No. 7 filed an application, before the District Magistrate, Madhepura, for providing protection on the basis that a decree was passed in his favour in a Title Suit and with a claim that he was in possession of property. The District Magistrate did not, however, pass any positive order on the application filed by the private respondents inasmuch as according to the District Magistrate, such order could be passed only by a civil court of competent jurisdiction. It seems that the District Magistrate made certain observation to the effect that the land, in question, has been in possession of respondent No. 7, which fact is being disputed by the appellant.

3. With a grievance that on the strength of the



said observation made by the District Magistrate, in his order dated 7.11.2014, to the effect that the private respondent was in possession over the land, the Sub Divisional Officer, Madhepura, deputed armed force by order, dated 5.12.2014, to ensure possession of the said land is maintained by respondent No. 7, the petitioner filed aforementioned CWJC No. 3115 of 2015 challenging the action of the District administration including the orders dated 7.11.2014 and dated 5.12.2014.

4. The learned single Judge, however, dismissed the writ application in view of the nature of dispute between the contesting parties and in view of the fact that a suit was pending, wherein injunction petition has also been filed, which was pending.

5. We do not find any infirmity in the order passed by the learned Single Judge in the facts and circumstances of the case since, admittedly, disputes of civil nature touching questions of title and possession over immoveable property are pending before the Civil Court of competent jurisdiction.

6. Mr. Sanjeev Kumar Mishra, learned counsel, appearing on behalf of the appellant, has submitted that the unwarranted observation, made by the District Magistrate, Madhepura, to the effect that the private respondent was in

possession over the land, in question, is prejudicial to his interest.

7. In the facts and circumstances of the case and in view of the submission advanced on behalf of the appellant, we close this appeal without interfering with the order, under appeal passed by the learned single Judge, with the only observation that the order passed by the District Magistrate, Madhepdura, will not prejudice the appellant’s case in any manner whatsoever in Title Suit No. 121 of 2009, pending before the learned Civil Judge I, Senior Division, Madhepura. This Court also expects that the learned Civil Judge I, Senior Division, Madhepura, would strive to conclude the suit as expeditiously as possible.

8. This appeal stands disposed of with the observations as above.

(I. A. Ansari, ACJ)

(Chakradhari Sharan Singh, J)

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