

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10027 of 2014

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1. Alpana Karmakar, W/o Sri Susant Ranjan Karmakar.
 2. Susant Ranjan Karmakar, S/o Late Yogendra Mohan Karmakar.
- Both are residents of Mohalla- North Mandiri, P.S. - Budha Colony,
District- Patna.

.... Petitioner/s

Versus

1. The Registrar, Co-operative Societies, Bihar, New Secretariat, Patna.
2. Indian Bank Staff Sahkari Grih Nirman Samiti Ltd., Patna through its Secretary, Biscomaun Bhawan, Gandhi Maidan, Patna.
3. Sri Sachhidanand Singh, Ex-secretary, Indian Bank Staff Sahkari Grih Nirman Samiti, Biscomaun Bhawan, Gandhi Maidan, Patna.
4. Baban Yadav, S/o Nagina Prasad Yadav, resident of Mohalla- Khasmahal, Road No. 3, Chiraiyan Tand, P.S. Jakkanpur, District- Patna.
5. Nagina Prasad Yadav, S/o Harihar Prasad Yadav @ Harihar Rai, R/o Khasmahal Road no. 3, Chiraiyatad, P.S- Jakkanpur, District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rahul Kumar
Mr. Pratyush Kumar
For the Respondent-State : Mr. Swapnil Kumar Singh, AC to GP-1
For the Private Respondents : Mr. Ishwari Singh
Mr. Manish Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 08-02-2016

Heard Mr. Rahul Kumar, learned counsel appearing for the petitioner, counsel for the State and Mr. Ishwari Singh, learned counsel appearing for the private respondents.

The petitioner is aggrieved by the order dated 9.12.2013/27.1.2014 passed by the Registrar, Cooperative Societies, Bihar, Patna in Miscellaneous Case No.80 of 2010 whereby the miscellaneous case filed by the petitioner seeking demarcation of the plots held by her, was disposed of inter alia with an advise to seek her remedy before the Civil Court.

I have heard learned counsel for the parties and perused the records.

Both the petitioners as well as the private respondents claim title and possession over their respective plots by virtue of sale-deed executed by attorney-holders of two different members of the society. While the petitioner no.1 claims purchase of a plot no.3 from petitioner no.2 as the attorney of Lakhi Rai, an allottee from the society, the two petitioners also claim title and possession over plot no.4 on basis of purchase by the petitioner no.2 from the society. The private respondents on the other hand claim purchase of plot no.11 from the attorney holder of Smt. Santana Banerjee, an allottee from the society. It is the complaint of the petitioners that they have been dispossessed at the hands of the private respondents as back as on 30.11.2008. It is their case that they have been running from pillar to post and finally filed the case in question giving rise to Miscellaneous Case No.80 2010 but which has been relegated to the remedy of the Civil Court.

The undisputed facts which are emanating from the proceedings is that both the contesting parties are claiming title and respective possession through deeds executed by the attorney-holder. Again both the parties are claiming title over different number of plots. The third undisputable fact is that none of the parties are claiming purchase from the society except plot no.4 by

the petitioner no.2. While both the parties are claiming possession on the plot duly registered in their favour by their respective attorneys the case of the petitioners is that they have been dispossessed from their plot. Manifestly an issue of declaration of title, its confirmation as well as restoration of possession is being raised by the petitioners herein and which issue obviously could not have been a subject-matter of the proceedings before the Registrar for it would require adducing of evidence, examination of witnesses and appreciation thereof which arena is reserved with the court of competent civil jurisdiction.

In the circumstances so discussed, I find no infirmity in the advise tendered by the Registrar, Cooperative Societies in asking the petitioners to seek their remedy before the Civil Court for even in my opinion that would be the correct forum in the nature of dispute that is sought to be raised in the present context.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

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