

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11148 of 2015

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1. Jagmania Devi, wife of late Ramashish Singh, Permanent resident of Village- Mithanchak, P.S. Gopalpur, District Patna, Resident of Village - Makhdumpur Margia Tola, Gate No. 87, P.S.+P.O. - Digha Ghat, District Patna.
 2. Smt. Kumkum Ranjan, wife of Sri Umesh Ranjan, Resident of Village - Patalapur, P.S.- Shahpur, P.O. Madhopur, District-Patna.
 3. Smt. Sharmila Devi, wife of Sri Dharendra Kumar, Resident of Village and P.O.- Parthur, Pipra, District- Patna.
 4. Smt. Shanti Devi, wife of Sri Pramod Kumar Sinha, resident of Village and P.O. -Malikpur, P.S- Karaipersurai, District Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, Patna.
 2. The Deputy Collector, Land Reforms, Patna Sadar, Patna.
 3. The Circle Officer, Sampatchak, Patna.
 4. Bhuvishwar Singh
 5. Ramjee Singh
 6. Dinesh Kumar
 7. Ashok kumar Singh
- Sl no. 4 to 7 sons of late Bhagwan Singh, resident of village -Mithanchak, P.S Gopalpur, District Patna.

.... Respondent/s

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Appearance :

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| For the Petitioner/s | : | Mr. T.N.Maitin, Sr.Adv.
Mr. Dileep Kumar Singh, Adv. |
| For the Respondent nos.1to3 | : | Mr. Nadeem Seraj, GP-20
Mrs. Shalini, AC to GP-20 |
| For the Respondent nos.4 to 7 | : | Mr.J.S.Arora, Adv.
Mr. Manoj Kumar, Adv.
Mr.Gaurav Pratap, Adv. |

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 15-03-2016 Heard the parties.

The petitioners are aggrieved by the judgment and order dated 25th May, 2015 passed in B.L.T. Case No.908 of 2013 by the learned Chairman of Bihar Land Tribunal, Patna, as contained in Annexure-7 to the writ petition, whereby the aforesaid case filed on behalf of the respondent nos.4 to 7 has been allowed on the ground of pendency of Title Suit No.835 of 2011

between the parties and it has been observed that Jamabandi running in the names of the petitioners with respect to the lands in question will continue till the disposal of the aforesaid title suit.

Learned senior counsel appearing on behalf of the petitioners, though has argued the matter at some length, but has not been able to demonstrate before this Court that the respondent D.C.L.R., Patna Sadar, Patna was empowered to cancel the Jamabandi running in the name of the private respondents. He has also not disputed the fact that Title Suit No.835 of 2011 is pending between the parties with respect to the lands in question. However, he contended that the petitioners and the private respondent nos.4 to 7 are descendants of their common ancestor and, therefore, according to him, the respondent D.C.L.R., Patna Sadar, Patna has only directed for mutation of the lands in their favour to the extent of the admissible share and the aforesaid order was affirmed by the revisional authority.

The matter has been contested by the respondents. According to them, all these issues of facts concerning the possession as also right and title of the parties are subject matter of consideration in the aforesaid pending Title Suit No.835 of 2011. Therefore, according to them, during the pendency of the aforesaid title suit the respondent D.C.L.R. as also the Additional Collector ought not to have been passed order in favour of the petitioners and, therefore, the orders passed by them have rightly been set aside by the learned Tribunal.

After having heard the parties, this Court finds that there is no dispute that both sides are descendants of their common ancestor and both sides are claiming right, title and possession over the lands in question. It is also not in dispute that the Title

Suit No.835 of 2011 is pending before the learned Sub-Judge-1st, Patna wherein both sides are parties.

In above view of the matter, this Court does not feel persuaded to interfere with the impugned judgment and order dated 25th May, 2015 passed in B.L.T. Case No.908 of 2013 by the learned Bihar Land Tribunal, Patna. In that view of the matter, the writ petition is dismissed.

However, it is clarified that, if during the pendency of the aforesaid Title Suit No.835 of 2011, the respondent nos.4 to 7 try to alienate or encumber the suit property in any manner, then the petitioners shall be at liberty to approach the Civil Court for grant of appropriate relief(s) by way of grant of injunction.

If such a petition is filed on behalf of the petitioners or by the private respondents, then it is expected that the Civil Court shall take up the matter and shall decide the petition strictly in accordance with law.

It is also clarified that the Civil Court shall decide the aforesaid Title Suit No.835 of 2011 pending between the parties on the basis of the evidence/materials produced by them, but without being prejudiced/influenced by the findings recorded by the learned Tribunal in the impugned order.

(Birendra Prasad Verma, J)

Arvind/-

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