

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13231 of 2003

With
Interlocutory Application No. 2847 of 2016

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1. Md.Rauf son of Md.Taiyab @ Munna Mian
 2. Md.Sirajuddin son of Late Abdul Rashid
- Both are residents of Village Garh Dibaur, P.S.Rajauli, P.O. Dibaur,
District Nawada

.... Petitioner/s

Versus

1. The State of Bihar
 2. The Superintending Engineer, National Highway, New Secretariat Building, Patna
 3. The Executive Engineer, National Highway, Biharsharif Circle, Bhaisa Soor, Biharsharif
 4. Sub Divisional Officer, National Highway, Rajauli Sub Division, Rajauli, District Nawadah
 5. Most. Gauri Devi wife of Late Girdhari Mahto
 6. Rupan Pd.Yadav
 7. Ram Swarup Pd.Yadav
 8. Jagdish Yadav
 9. Krishna Yadav
- Respondent Nos. 6 to 9 are sons of Late Girdhari Mahto, resident of Garhdepur, P.S.Rajauli, District Nawadah
10. Jitani Devi wife of Sita Yadav, daughter of Late Girdhari Mahto, resident of Village Pachama, P.S.Rajauli, District Nawadah
 11. Meena Devi W/o Arvind Kumar D/o Late Girdhari Mahto, resident of Village Maheshdih, P.S.Akbarpur, District Nawada
 12. Md.Taiyab @ Munna Mian (father of petitioner no.1)
 13. Md.Khaleel
 14. Md.Neram
- Respondent nos. 12 to 14 are sons of Late Nabi Baksha
15. Bibi Shera Khatoon wife of Gulam Rasheed D/o Late Nabi Baksha
 16. Bibi Jaitoon Nisha wife of Abdul Rashid (mother of petitioner no.2)
- Respondent nos. 12 to 16 are resident of Village Garhdebour, P.S.Rajauli, District Nawada

.... Respondent/s

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Appearance :

For the Petitioner/s : None

For the Respondent Nos. 1 to 4 : Mr. J.P.Kishore, AC to SC 13

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

9 01-09-2016 Despite repeated calls, none appears on behalf of the petitioners in support of the present writ petition. None appears on behalf of the respondent nos. 5 to 16 as well, though the names of

the learned counsel appearing on their behalf are printed in the daily cause list.

2. The learned AC to SC 13, appearing on behalf of the respondent nos. 1 to 4, submits that on 11.08.2016 also the matter was taken up, but none had appeared on behalf of the petitioners.

3. The petitioners have filed the present writ petition under Article 226 of the Constitution of India seeking a direction to the respondents authorities to restore back their possession over the lands in question, fully detailed in paragraph 4 of the writ petition. However, in the whole writ petition, valid documents of right and title over the lands in question have not been brought on the record, save and except, certain rent receipts issued in their favour. In the writ petition, it has also not been stated that for redressal of their valid grievances, the petitioners approached the competent authority of the respondent State, yet their valid grievances were either not considered or rejected. It is apparent that the petitioners have straight away approached this Court in the present proceeding filed under Article 226 of the Constitution of India for grant of relief(s) with respect to the lands in question enumerated in paragraph 1 of the writ petition.

4. The learned State counsel, appearing on behalf of the respondent nos. 1 to 4, by referring to the averments made in the counter affidavit filed on their behalf, submits that the claims of right and title of the petitioners over the lands in question is in serious dispute and Title Suit No. 134 of 2000 with respect to the lands in question has been filed by one Girdhari Mahto, which is still pending. Besides that, it has further been averred in the aforesaid counter affidavit that the petitioners have not approached

the competent authority for redressal of their valid grievances with respect to the lands in question.

From the pleadings of the parties as also the materials available on the record, this Court finds that the claims raised on behalf of the petitioners with respect to the lands in question are based on disputed question of fact, which cannot be gone into in the present proceeding filed under Article 226 of the Constitution of India.

In above view of the matter, the present writ petition is dismissed. However, liberty is granted to the petitioners to approach the competent authority of the respondent State or any other appropriate forum or civil court of competent jurisdiction for redressal of their valid grievances with respect to the lands in question. I.A. No. 2847 of 2016 is disposed of accordingly.

(Birendra Prasad Verma, J)

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