

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18614 of 2011

=====

Raghunandan Sahu, S/O Late Mantun Sahu, Resident Of Village - Mahra,
P.O. Diha P.S. Singhiya, District - Samastipur

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Secretary, Land Reforms, New Secretariat, Bailey Road, Patna
3. The District Magistrate, Samastipur District - Samastipur
4. The Deputy Collector, Land Reforms, Samastipur, District -Samastipur
5. The Assistant Settlement Officer, Roshra, District - Samastipur
6. The Circle Officer, Singhiya Anchal. District - Samastipur
7. Nathu Khatwey S/O Bangli Khatwey Resident Of Village - Mahra, P.O. Diha P..S Singhiya, District - Samastipur

.... Respondent/s

=====

With

Civil Writ Jurisdiction Case No.20973 of 2012

=====

Raghunandan Sahu, S/O Late Mantun Sahu, R/O Village- Mahra, P.O. Diha, P.S. Singhiya, District- Samastipur

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Secretary, Land Reforms, New Secretariat, Bailey Road, Patna
3. The Commissioner, Darbhanga Division, District- Darbhanga
4. The District Magistrate, Samastipur, District- Samastipur
5. The Deputy Collector, Land Reforms, Samastipur, District- Samastipur
6. The Assistant Settlement Officer, Roshra, District- Samastipur
7. The Circle Officer, Singhiya Anchal, District- Samastipur
8. Nathu Khatwey S/O Bangli Khatwey R/O Village- Mahra, P.O. Diha, P.S. Singhiya, District- Samastipur

.... Respondent/s

=====

Appearance :

(In CWJC No.18614 of 2011)

For the Petitioner/s : Mr. Anil Chandra, Adv.
For the Respondent nos.1to6 : Mr. Rajesh Kumar, AC to AAG-3
For the Respondent no.7 : Mr.Ashok Kumar Mishra, Adv.

(In CWJC No.20973 of 2012)

For the Petitioner/s : Mr. Anil Chandra, Adv.
For the Respondent nos.1to7 : Mr. Sanjay Prasad, AC to AAG-6

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT

5 26-02-2016

In both the writ petitions, the issues of facts and law raised on behalf of the parties are identical and common, and further in both the writ petitions, the parties are also same and common; therefore, with the consent of the parties, both the matters have been heard together and are being disposed of by this common judgment.

The separate orders dated 16.10.1992 passed in Case No.514 of 1987 and 520 of 1987 by the respondent Assistant Settlement Officer, Rosera in exercise of his powers under Section 106 of the Bihar Tenancy Act, 1885 are under challenge in these two writ petitions.

The learned counsel appearing on behalf of the petitioner submits that aforesaid Case Nos. 514 of 1987 and 520 of 1987 both were filed by one Nathu Khatwey, impleaded as respondent no. 7 and 8 respectively with respect to the lands bearing plot no.2795 and 2471 area 24 decimals and 19 decimals respectively as also plot no.2394 area 2 decimals. According to him, both the aforesaid cases were finally dismissed by separate orders dated 16.10.1992. The aforesaid separate orders dated 16.10.1992 have been brought on record as Annexure-1 in both the writ petitions.

It is the case of the petitioner that on certain extraneous consideration both the original orders were subsequently replaced and substituted by another similar orders of the same date, wherein the claims of aforesaid Nathu Khatwey have been allowed and these orders are under challenge in these writ petitions.

Though the allegations are very serious against the authority concerned regarding interpolation in the original case



records and replacement of the original orders by substituting altogether new and different order(s), yet no counter affidavit has been filed in CWJC No.18614 of 2011 either by the learned State counsel or by the learned counsel appearing on behalf of the private respondent Nathu Khatwey. However, in CWJC No.20973 of 2012, separate counter affidavits have been filed on behalf of the official respondents as also the private respondent Nathu Khatwey taking a plea that the order impugned is original one whereby the claim of the private respondent was allowed.

In view of the aforesaid rival claims, by an order dated 13.10.2015 passed in CWJC No.20973 of 2012, the learned AAG-3 appearing on behalf of the official respondents was directed to produce original record of Case No.520 of 1987. In compliance of the aforesaid order, the original records of Case No. 514 of 1987 and Case No.520 of 1987 have been produced before this Court for perusal. From perusal of the original records of Case No.520 of 1987, this Court finds that at the top page where the different dates have been mentioned term “Aswikrit” is written against the order dated 16.10.1992. However, on the separate sheet order dated 16.10.1992 has been recorded wherein the claim of the private respondent has been allowed. In the writ petition filed on behalf of the petitioner, a photocopy of the certified copy of the order dated 16.10.1992 has been brought on record as Annexure-1 wherein the claim of the private respondent was rejected, but the respondents have nowhere stated in the counter affidavit that the aforesaid documents, as contained in Annexure-1 in both the writ petitions, are forged and fabricated, rather it has been asserted on behalf of the petitioner that after rejection of the claim of the private respondent certified copy was made available to him, but

on certain extraneous consideration, the order-sheet was replaced and the claim of the private respondent was allowed.

On the face of it, this Court finds that there has been manipulation and interpolation in the original records of both the cases and, therefore, the orders impugned cannot be sustained.

For the reasons recorded above, the impugned order dated 16.10.1992 passed in Case No.514 of 1987 by the respondent no.5, as contained in Annexure-3 in CWJC No.18614 of 2011 as also the impugned order dated 16.10.1992 passed in Case No.520 of 1987 by the respondent no.6, as contained in Annexure-4 in CWJC No.20973 of 2012 are hereby set aside and quashed. Accordingly, both the writ petitions are allowed with costs of Rs.10,000/- (Rupees Ten Thousand) in each cases payable by the then Presiding Officer who has passed the impugned order(s). If Sri S.L. Marandi, the then Assistant Settlement Officer, Rosera, who passed the impugned order(s), has superannuated, then the costs shall be recovered from his retiral dues and the amount shall be paid to the petitioner.

The original records produced by the learned State counsel are returned to him for taking appropriate further steps.

(Birendra Prasad Verma, J)

Arvind/-

U			
---	--	--	--