

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10286 of 2010

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1. Prasadi Mandal S/O Late Ganeshi Mandal
2. Ashok Mndal son of Late Lakhan Mandal
Both are resident of Vill Priyankar, P.S.Dhamdaha, P.O.Sandeep ,
Distt-Purnea

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector Purnea
3. The Circle Officer, Dhamdaha
4. Smt. Rukka Devi W/O Mangal Mandal R/O Vill Priyankar,
P.O.Sandeep, Distt-Purnea
5. Bal Ram Sharma S/O Late Sakal Sharma @ Sakal Das R/O Vill
Singhiyan Sundar, P.S. Bhawanipur, Distt-Purnea
6. Upendra Sharma S/O Late Sakal Sharma @ Sakal Das R/O Vill
Singhiyan Sundar, P.S.Bhawanipur, Distt-Purnea

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Santosh Kumar, Advocate

For the Respondent Nos. 1 to 3 : Mr. Biresh Kumar Singh, AC to AAG 2

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 02-05-2016 Heard the learned counsel appearing on behalf of the
petitioners and the learned AC to learned AAG II, appearing on
behalf of the respondent nos. 1 to 3.

The matters under dispute are the orders passed by the
revenue authorities regarding mutation of lands in question, fully
detailed in paragraph 3 of the writ petition.

The claim of mutation raised on behalf of the
respondent no.4 with respect to the lands in question was allowed
by the respondent Circle Officer, Dhamdaha by order dated
07.02.1996 passed in Mutation Case No. 795 of 1995-96
(Annexure-4). The petitioners, being aggrieved by the aforesaid
order, preferred Mutation Appeal No. 10 of 2005-06/17 of 2008-
09, which was allowed by the respondent DCLR, Dhamdaha by
order dated 20.05.2008, as contained in Annexure-6 to the writ



petition, on the ground that the petitioners are purchasers of the lands in question. The private respondent no.4, being aggrieved by the aforesaid appellate order, filed Mutation Revision No. 97 of 2008, which has finally been allowed by the respondent District Collector, Purnea by the impugned order dated 18.02.2010, as contained in Annexure-8 to the writ petition, on the ground that private respondent no.4 had purchased the land in question through registered sale deeds and therefore, the order passed by the appellate authority was reversed and set aside.

The learned counsel appearing on behalf of the petitioners submits that the petitioners have purchased the land in question through a sale deed, but the revisional authority has wrongly reversed the order passed by the appellate authority by accepting the claim of respondent no.4 that she is the purchaser of the lands in question.

From the facts noticed above, it transpires that both the parties are claiming their right, title and possession over the lands in question on the basis of purchase made by them through registered sale deed executed in their favour. Whether the vendor(s) of the respondent no.4 or that of the petitioners were entitled to transfer the lands in question by executing their respective sale deeds are the issues of facts, which can be decided effectively on the basis of evidence recorded by the civil court of competent jurisdiction. Such dispute cannot be determined in a proceeding under Article 226 of the Constitution of India without recording evidence of the parties.

In above view of the matter, this Court is not inclined to interfere with the order impugned. The writ petition is, accordingly, dismissed.

However, the petitioners, if so advised, shall be at liberty to approach the civil court of competent jurisdiction for getting their right, title and possession declared over the lands in question by producing cogent evidence in support of their claims with respect to lands in question.

If such a civil suit is filed on behalf of the petitioners within three months from today, after impleading all the necessary parties, then the same shall be considered and decided on its own merit without being prejudiced by dismissal of the present writ petition.

(Birendra Prasad Verma, J)

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