

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5532 of 2013

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1. Shree Krishna Pandey S/O Late Kuber Pandey R/O Village- Tori Tola Mohanpur, P.O.+P.S.- Bhagwanpur, District- Kaimur At Bhabua

2. Rajendra Pandey S/O Late Kuber Pandey R/O Village- Tori Tola Mohanpur, P.O.+P.S.- Bhagwanpur, District- Kaimur At Bhabua

.... Petitioner/s

Versus

1. The State Of Bihar

2. The District Magistrate, Kaimur At Bhabua

3. The Sub-Divisional Officer, Bhabua, District- Kaimur At Bhabua

4. The Anchaladhikari, Bhagwanpur, District-Kaimur At Bhabua

5. Most. Ramawati Kuer W/O Late Parashuram Kurmi R/O Village- Tori Tola Mohanpur, P.O.+P.S.- Bhagwanpur, District- Kaimur At Bhabua

.... Respondent/s

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

4 18-02-2016 Heard Mr. Rajni Kant Pandey for the petitioners
and counsel for the State.

The epicenter dispute in the present case is a piece of land which has been recorded as Gairmajaruwa Bihar Sarkar land in the revisional survey records. The respondent claiming herself as the eligible person for settlement of the government lands applied for settlement. On recommendation made in this regard by the Revenue authority, the Sub Divisional officer vide order dated 27.9.2008 (Annexure-3) accorded sanction and the land was settled with the said respondent. This was done probably under the circulatory provision of the revenue department of the Government. Aggrieved by the aforesaid order, the petitioner

filed appeal before the Collector vide appeal no. 02 of 2009-10.

One of the contention of the petitioners is that the suit was pending in respect of the subject land between the respondent and the writ petitioner in which the State is also party. The subject, land during the consolidation proceedings, was recorded in the name of the petitioners. The Collector, on appraisal of the materials on record and after hearing both the parties, refused to invoke the supervisory jurisdiction of the Court and rejected the appeal. While doing so, it was noted that the Title suit no. 197 of 1999 pending consideration was dismissed by the learned Munsif, Bhabua on 22.5.2009 maintaining the settlement order passed by the Sub Divisional Officer, Bhabua. Mr. Pandey states that an appeal has been preferred by the petitioners against the aforesaid judgment and order of the learned Munsif which is pending consideration on the file of the appellate Court vide appeal no. 49 of 2009. He also submits that although the land during the revisional survey stood recorded in the name of the Bihar Sarkar but the petitioners continued in possession thereof. Settlement of the subject land in favour of the private respondent is bad in law.

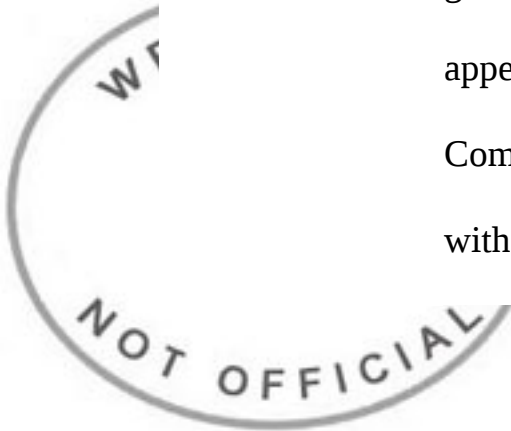
Learned counsel for the State, on the other hand, submits that the land being the Government waste land could

have been settled with eligible persons like the respondent no.4. The appeal of the petitioners is pending consideration. The petitioners may seek remedy in the pending appeal and/or institute a fresh suit for declaration of their right title and interest over the subject land.

On consideration of the rival submissions it appears that a disputed question of title is being raised by the petitioners in the present writ petition. Whether by virtue of the settlement of the land by the ex-landlord the subject land became the property of the writ petitioners cannot be examined in the writ jurisdiction of this Court. The collector, in the impugned order has noted and, in my view, correctly that such matter would not be considered in the supervisory jurisdiction of the authority. This Court is also of the opinion that such dispute cannot be examined by this Court in writ jurisdiction so long as the subject land stands recorded as Gairmajaruwa Bihar Sarkar land. The jurisdiction of the State to settle the land with the eligible person in accordance with the circular of the State Government cannot be questioned. It appears the appeal at the instance of the petitioners is pending consideration before the appellate authority /competent Court.

In the light of discussion made above, this Court declines to interfere with the order passed by the respondent

Collector which has been impugned in the present writ petition giving liberty to them to agitate their claim either in the pending appeal and/or file appropriate proceeding before the Court of Competent Civil jurisdiction for requisite relief in accordance with law.



(Kishore Kumar Mandal, J)

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