

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.333 of 2007

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1. Girish Rajak son of Late Tinkouri Rajak (**expunged vide order dated 5.2.2009 and substituted by his following heirs and legal representatives:**)

(i) Gauri Devi, widow of late Girish Rajak

(ii) Dilip Rajak, son of late Girish Rajak, resident of village Bhandartal (Barari), P.S. Barari, District Katihar.

2. Sant Lal Mochi son of Late Jattu Mochi; resident of village Bhandartal (Barari), P.S. Barari, District Katihar.

.... Petitioner/s

Versus

1. The State of Bihar

2. The Additional Collector (Revenue), Katihar

3. The Deputy Collector Land Reforms, Katihar, P.S. and District Katihar.

4. The Circle Officer, Barari, District Katihar.

5. Halka Karamchari, Katihar, P.S. and District- Katihar.

6. Samser Singh son of late Sardar Guru Prasad Singh, resident of village Uchla, P.S. Barari, District Katihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suresh Prasad Baranwal, Adv.

For the Respondent/s : None.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 28-07-2016

Heard the learned counsel appearing on behalf of the petitioners. However, none appears on behalf of the respondents.

The petitioners are aggrieved by the order dated 20.11.1999 passed in Jamabandi Correction Case No. 1 of 1999-2000/ 3 of 1999-2000 by the respondent Additional Collector, Katihar, as contained in Annexure-2 to the writ petition, whereby jamabandi standing in the name of the petitioners with respect to the lands in question has been directed to be cancelled and fresh Jamabandi in the name of the private respondent no.6 has been directed to be created, after approval of the District Collector, Katihar, in view of the judgment and decree dated 19.07.1978 passed in Title Suit No. 709 of 1964 by the learned Additional Munsif, Katihar.

The learned counsel appearing on behalf of the petitioners submits that on the basis of the orders passed in Settlement Case No.



4 of 1987-88, the original petitioner no.1 Girish Rajak was settled 1.15 acres of land and the petitioner no.2 was settled 1 acre of land of survey plot no. 127 appertaining to khata no. 816 situate at Mauza Bhandartal in the district of Katihar and, accordingly, Jamabandi No. 1657 and 1659 were created in their favour in the year 1987-88. It is also submitted that after the aforesaid settlement, the petitioners were paying the rent to the State of Bihar and rent receipts were being issued to them, but the revenue authorities have refused to accept the rent from them for the lands in question from the year 2006-07 in view of the impugned order dated 20.11.1999 (Annexure-2) passed by the Additional Collector, Katihar.

After having heard the learned counsel appearing on behalf of the petitioners and on examination of the materials available on the record, this Court finds that there is no dispute about settlement of lands in question in favour of the petitioners made in the year 1987-88 and creation of Jamabandi in their favour, but it is also equally true that while passing the order of settlement, the lands in question was wrongly treated as belonging to the State of Bihar, though facts remain that the civil court of competent jurisdiction by its judgment and decree dated 19.07.1978 passed in Title Suit No. 709 of 1964 had already declared the right and title of the respondent no.6 over the lands in question and thereafter the lands in question were mutated in his favour. However, by ignoring the judgment and decree passed by the civil court, order of settlement was passed in favour of the petitioners and the Jamabandi was also created, which has been directed to be corrected by the impugned order dated 20.11.1999 (Annexure-2). The judgment and decree passed by the civil court has admittedly attained its finality. The learned counsel appearing on behalf of the petitioners has not been able to show that the judgment and decree passed by the civil court on 19.07.1978 has been reversed or modified by any higher court or in any subsequent proceeding.

That being the admitted position, the order of settlement made in favour of the petitioners in the year 1987-88 by treating the lands in question belonging to the State of Bihar was patently illegal and without jurisdiction. Therefore, it has rightly been corrected by the impugned order.

In above view of the matter, this Court is not persuaded to interfere with the impugned order dated 20.11.1999 (Annexure-2) passed in Jamabandi Correction Case No. 1 of 1999-2000/ 3 of 1999-2000 by the respondent Additional Collector, Katihar. However, in the counter-affidavit filed on behalf of the respondent nos. 1 to 5 it has been stated in paragraph-7 that a fresh Settlement Case No. 1 of 2007-08 has been started for settlement of alternative lands to the petitioners. Recommendation has already been made by the Anchal Adhikar, Barari for settlement of alternative lands in favour of the petitioners, vide orders as contained in Annexure-D to the aforesaid counter-affidavit. Therefore, the petitioners shall be well advised to pursue that matter before the competent authority, so that alternative lands are settled in favour of the petitioners. The respondent authorities shall also make all endeavours to take the aforesaid Land Settlement Case No. 1 of 2007-08 to its logical conclusion, if the final order has not already been passed till date.

With the aforesaid observations and directions, the present writ petition is dismissed, but without costs.

(Birendra Prasad Verma, J)

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