

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12326 of 2013

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1. Pramod Kumar Singh Son of Late Chandradeo Singh Resident Of Kachahari Chowk, P.O. + P.S.- Begusarai, District- Begusarai
 2. Poonam Kumari Wife of Pramod Kumar Singh Resident of Kachahari Chowk, P.O. + P.S.- Begusarai, District- Begusarai

.... Petitioner/s

Versus

1. The State Of Bihar through The Secretary, Department Of Land Reforms, Bihar, Patna
2. The Divisional Commissioner, Munger Division, District- Munger
3. The Deputy Collector Land Reforms, Begusarai, District- Begusarai
4. Most. Premlata Devi Wife Of Late Ramakant Singh Resident Of Pramila Chowk, Krishnapuri, P.O. + P.S.- Begusarai, District- Begusarai

.... Respondent/s

with

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Miscellaneous Jurisdiction Case No. 3664 of 2014

IN

Civil Writ Jurisdiction Case No. 12326 of 2013

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Most. Premlata Devi wife of Late Ramaknat Singh, Resident of Mohalla-Pramila Chowk, Krishnapuri, P.S. Begusarai, District-Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar
2. Sri Niranjana Kumar (Incharge), The Deputy Collector Land Reforms Begusarai
3. Sri Niranjana Kumar, the Circle Officer, Begusarai
4. Pramod Kumar Singh, Son of Late Chandradeo Singh, Resident of Kachahari Chowk, P.S. Begusarai, District-Begusarai.
5. Poonam Kumari, wife of Pramod Kumar Singh, Son of Late Chandradeo Singh, Resident of Kachahari Chowk, P.S.-Begusarai, District-Begusarai.

.... Respondent/s

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Appearance :

(In CWJC No. 12326 of 2013)

For the Petitioner/s : Mr. Mrigank Mauli, Adv
Mr. Sanket, Adv
Prince Kumar Mishra, Adv

For the Respondent/s : Ajay Kumar Thakur, Adv

(In MJC No. 3664 of 2014)

For the Petitioner/s : Mr. Md.Imteyaz Ahmad

For the Respondent/s : Mr. P.K. VERMA

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 04-04-2016

Heard Mr. Mrigank Mauli, the counsel for the petitioner, Mr. Ajay Kumar Takhur, the counsel for the private respondent and the State.

Under challenge in this writ petition is the order dated 28.05.2012 (Annexure-3), passed by the respondent-Deputy Collector Land Reforms as well as the order dated 12.02.2013 (Annexure-5), passed by the respondent-Divisional Commissioner, rejecting the appeal preferred by the writ petitioner(s).

Both parties claim the subject land measuring an area of 10 decimals in Khata No. 79, Plot no. 252, on the basis of Mahadnama (Agreement for sale) executed in their favour on two dates by the owner of the land and/or his legal heirs. The writ petitioner(s) claim the subject land on the basis of agreement for sale executed on 23.04.2001, whereas writ petitioner(s) claim the subject land on the basis of agreement for sale executed on 15.01.1999. Boundary dispute appears to have arisen between them which prompted the respondent lady to approach the Hon'ble Chief Minister, Bihar. The application was directed to be examined/considered by the Dy. Collector Land Reforms in accordance with law. On transmission thereof, DCLR instituted the proceeding and proceeded to dispose of the same. On notice, the writ petitioner(s) appeared and contested. Upon hearing both sides, the court directed for demarcation of the land(s) of the parties as per

the agreement(s) for sale executed in their favour. This was assailed by the petitioner(s) before the respondent-Divisional Commissioner by filing appeal, which was considered and dismissed.

Contention of Mr. Mauli that the lady could not be treated as petitioner(s). She did not file application before the DCLR. It was an application which was transmitted to the Court for disposal. The respondent-DCLR failed to consider that there was already a sale deed in favour of the writ petitioner respecting the land on 11.07.2012. In the mutation proceeding, the writ petitioner(s) was found in possession of the subject land and mutation was ordered against which the respondent no. 4 filed an appeal, which is pending consideration. It was not a settled land. The jurisdiction under the Land Dispute Resolution Act could not have been exercised by the respondent-DCLR.

In contra, Mr. Takhur has supported the impugned order(s) contending that the only remedy in the facts of the case lie with the writ petitioner(s) in filing a suit for declaration of title and/or specific performance of contract. A suit is pending against another claimant by the vendor of the subject land (late Kamo Mahton) in which the respondent as well as late Kamo Mahton have been impleaded, as defendant(s). The Authority has only directed for demarcation which is under challenge. He also states that there is a statutory remedy available to the writ petitioner before the Bihar

Land Tribunal constituted under the Bihar Land Tribunal Act, 2009.

On consideration of the rival submissions, it appears that the petitioner(s) have a statutory remedy available to him/them. All questions of law & fact can be raised before and answered by the Tribunal. That apart, relevant facts which are disputed before this Court can also be examined by the Tribunal.

Mr. Mauli has contended that on the basis of such demarcation which has already been carried out, the parties have tried to take forceful possession.

Having regard to the above, this Court directs that the status quo as existing today between the parties in respect of the subject land, shall be maintained by them for a period of four weeks which shall be utilized by the petitioner to file petition before the Tribunal after seeking condonation of delay, if any.

The application is disposed of.

M.J.C. No. 3664 of 2014

Heard both sides.

In view of the order passed above, the contempt application also stands disposed of.

(Kishore Kumar Mandal, J)

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