

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21176 of 2013

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Raja Giri Son of Late Ramchandra Giri Resident of Bairiya Briti Tola, P.S. -
Bairiya, District - West Champaran

.... Petitioner/s

Versus

1. The State Of Bihar through The Principal Secretary Department of Revenue and Land Reforms Government of Bihar, Patna
2. The D.M. cum Collector, Bettiah, West Champaran
3. The Land Reformer Deputy Commissioner, Bettiah, West Champaran
4. The Superintendent of Police, Bettiah, West Champaran
5. The Circle Officer, Bairiya in the District of West Champaran
6. The Officer in Charge Of Bairiya Police Station in the District Of West Champaran
7. Parashuram Baitha Son Of Late Ram Raj Baitha Resident of Bairiya Briti Tola, P.S Bairiya, District West Champaran
8. Laxmi Baitha Son Of Late Kamala Baitha Resident Of Village Bairiya Briti Tola, P.S. Bairiya, District - West Champaran

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. BIMLESH KUMAR PANDEY

For the Respondent/s : Mr. SHYAM KISHOR SHARMA

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 27-06-2016

Heard the counsel for the petitioner and the State.

Jamabandi No. 58 and 61 of the subject land stood recorded in the name of Raghuni Baitha, the ancestor of the respondent. The petitioner claiming title and possession thereover, filed a proceeding before the respondent-Deputy Collector Land Reforms (DCLR) vide 50/05-06 for correction in Jamabandi.

Having appreciated the relevant facts and after hearing both sides, the Deputy Collector Land Reforms by proceeding



dated 26.06.2006 (Annexure-3), declined to interfere with the Jamabandi in respect of the subject land running in favour of the private respondent(s) or his ancestor(s). Dissatisfied therewith the petitioner filed a mutation revision before the respondent-Collector vide R.M. Case No. 33/06-07. The prayer made therein was declined by the respondent-Collector observing as under:

“Obviously, the question arises as to whether a revenue court has jurisdiction to set-aside the jamabandi created as a result of transaction made by khatiyani holder which were in existence prior to vesting of zamindari in the State. Obviously the answer as to be in negative. As per case law firmly established through various judgment and Hon’ble High Court that Revenue Court have no jurisdiction to enquire into the veracity of jamabandi created by the then Zamindar which the State Govt. was bequeathed. Therefore, on this court alone, the impugned order passed by the Ld. D.C.L.R. Bettiah is hereby upheld and affirmed.

Since, resolution of the above mentioned discrepancies are beyond the limited pervue of the this court and because the resolution of this would require intervention by a competent civil court, therefore, the petitioner would be well advised to approach the appropriate civil court and accordingly the revision petition is dismissed as no merit”.

After disposal of the revision application, the respondent-Circle Officer passed an order dated 30.04.2013 in Misc. Case No. 01 of 2013-14, wherein while declining any correction in the

Jamabandi, it is observed that the possession of the private-respondents on the subject land embodied under Jamabandi Nos. 58 and 61 until an order is passed by the Competent Court of Civil Jurisdiction shall remain.

There is no dispute that after the order passed by the Deputy Collector Land Reforms refusing to make corrections/change in the Jamabandi Nos. 58 and 61, the petitioner has filed a title suit seeking appropriate relief(s) in respect of the subject land in which the private respondent(s) have been impleaded as defendant(s).

Contention of the petitioner is that such declaration of possession by the Circle Officer in the impugned order is contrary to law. The order may prejudice him in the pending suit.

In my view, although there was no need to pass such order, but the Circle Officer appears to have passed the order in the light of two orders passed by the Deputy Collector Land Reforms as well as the Collector of the District refusing to grant the prayer of the petitioner to make correction(s) in the Jamabandi Nos. 58 and 61. The Jamabandi is created and the persons/tenants are recorded in Register-II for realization of rent, which is without prejudice to right. If the Jamabandi in respect of the subject land has not been interfered with by the superior court then the respondent shall continue in the eye of law as the tenant in possession of the subject

land until an order is passed by the Court of Competent Jurisdiction. Here is a case where the petitioner has already filed a title suit. This Court would only clarify that the order dated 30.04.2013, passed by the respondent-Circle Officer shall not enure to the benefits of either party in the pending suit. The rights of the parties in respect of the subject land shall be decided by the Court where the suit is pending.

The writ application stands disposed of with aforesaid observation.

(Kishore Kumar Mandal, J)

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