

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4603 of 2014

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1. Raj Kumar Mahto
2. Ramdev Mahto
3. Shivajee Mahto, All Sons of Late Ram Sharan Mahto, Resident of Village –
Maheshpura, P.O., P.S. and Anchal Jhanjharpur, District - Madhubani
..... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Madhubani, District
Madhubani
2. The Sub Divisional Magistrate, Jhanjharpur, District - Madhubani
3. The Dy. Collector, Land Reforms, Jhanjharpur, District - Madhubani
4. The Anchal Adhikari, Jhanjharpur, District - Madhubani
5. The Chairman, Bihar Bhoodan Yagna Committee Gardanibagh, P.S.
Gardanibagh, District Patna
6. The Officer Secretary, Bhoodan Yagna Committee Zila Collectorate,
Madhubani, District - Madhubani
7. Kalar Paswan
8. Debu Paswan, Both Sons of Late Mukhai Paswan, Resident of Village -
Maheshpura, P.O., P.S. and Anchal Jhanjharpur, District - Madhubani
..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Uday Bhanu Roy
Mr. Baleshwar Kamat

For the Respondent No. 1 to 6: None.

For the Respondent No.7 & 8: Mr. Ashok Kumar Prasad

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 23-06-2016

Heard the learned counsel appearing on behalf of the petitioners and the learned counsel appearing on behalf of the respondent no. 7 and 8. However, none appears on behalf of the respondent no. 1 to 6, though the names of their learned counsel are printed in the daily cause list.

The petitioners have filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of *Praman- Patra* dated 23.01.1970 (Annexure-1) issued by the respondent- Bihar Bhoodan Yagna Committee in favour of one Mukhai Paswan, now deceased father of the respondent no. 7 and 8.



The learned counsel, appearing on behalf of the petitioners, submits that the lands in question, fully detailed in paragraph-5 of the writ petition, was originally belonging to the father of the petitioners and it was never donated by him. Hence, issuance of *Praman- Patra* in favour of the father of the respondent no. 7 and 8 is not sustainable. Alternatively, he further submits that even if the land in question was donated, then that was required to be confirmed under the provisions of The Bihar Bhoodan Yagna Act, 1954 (In short 'Act, 1954'), but it was never confirmed in terms of Section 11 of the Act, 1954. He also submits that the lands in question is still in possession of the petitioners.

The learned counsel, appearing on behalf of the respondent no. 7 and 8, on the other hand submits that *Praman- Patra* was issued in favour of their father way back in the year 1970; therefore, after such a long delay of about 46 years, the matter cannot be re-opened. However, in the counter-affidavit filed on behalf of the respondent no. 7 and 8 it has nowhere been asserted that after donation of the lands in question by the father of the petitioners, it was confirmed under the provisions of the Act, 1954.

In view of nature of controversy raised in the present proceeding, this Court is of the opinion that the petitioners should, at the first instance, approach the respondent District Collector, Madhubani, who is also a revenue officer under the meaning of Section 2(f) of the Act, 1954, by filing an appropriate petition/ objection under Section 11 of the Act, 1954. If an appropriate petition/ objection under Section 11(3) of the Act, 1954 is filed on behalf of the petitioners within a period of six weeks from today with a certified copy of the present order, then the respondent District Collector, Madhubani shall examine the entire matter in terms of section 11(4)

read with Section 11 (7) of the Act, 1954 and shall pass appropriate final order, after giving an opportunity of hearing to all concerned including the petitioners and the respondent no. 7 and 8.

In order to facilitate the early disposal of the matter, the petitioners as also the respondent no. 7 and 8 are directed to appear before the respondent District Collector, Madhubani on 8th August, 2016 in the manner indicated above, whereafter he shall proceed to hear and decide the matter in accordance with law and in the light of the observations made above. All endeavours shall be made by the respondent District Collector, Madhubani to dispose of the matter at an early date preferably within a maximum period of six months from the date of appearance of the parties before him.

Before the respondent District Collector, Madhubani, the Revenue Officer, the parties shall be at liberty to raise all the issues of facts and law, which may be available to them with respect to the lands in question. It is further clarified that before passing any final order, the respondent District Collector, Madhubani shall summon all the relevant records either from District Bhoodan Yagna Committee or the State Bhoodan Yagna Committee to verify the issues raised on behalf of the petitioners with respect to donation of land in question by their father and order of confirmation, if any.

Till the matter is decided by the respondent District Collector, Madhubani in terms of Section 11 of the Act, 1954, the parties shall maintain status quo as obtaining today.

With the aforesaid observations and directions, the present writ petition stands finally disposed of.

(Birendra Prasad Verma, J)

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