

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1811 of 2006

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Sukul Devi wife of Deo Narain Mehta, of village- Chandaaur, Tola, Hanuman, Nagar, P.O. & Anchal Shaur Bazar, District- Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar
 2. Commissioner, Koshi Division, Saharsa.
 3. Additional Collector, Saharsa.
 4. Deputy Collector Land Reforms, Saharsa.
 5. Anchal Adhikari Saur Bazar, District- Saharsa.
 6. Lalita Devi
 7. Jaga Devi, both widow of Late Rameshwar Yadav.
 8. Digambar Yadav son of Late Chhotkan Yadav.
 9. Umesh Yadav son of Rajendra Yadav.
 10. Md. Allauddin son of late Md. Jalalluddin.
 11. Chhedi Paswan son of Mohan Paswan.
 12. Mahendra Sah son of Musaharu Sah.
 13. Sukhdeo Malakar son of late Baldeo Malakar.
 14. Manoj Ram son of Late Ganesh Ram.
 15. Bendeshwari Yadav son of Laxmi Yadav.
 16. Nathan Sah son of Late Panna Lal Sah.
 17. Mostt. Bechani Devi wife of late Bindeshwari Singh,
- All resident of village Chandaaur, Tola, Hamuman Nagar, P.S. and Anchal Saur Bazar, District Saharsa.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nirmal Kumar Sinha, Adv.

For the Respondent No.1 to 5 : Mr. Ajay Kumar Sharma, AC to PAAG-I

For the Respondent No. 6, 8 to 13, 15 & 16: Mr. Anil Kumar Mukund, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 08-08-2016

Heard the parties.

The dispute in the present proceeding is with regard to the right and title of the parties over the lands in question, fully detailed in paragraph-4 of the writ petition, which have been recorded as “Gairmajarua Aam Sarbsadharan” land in the revenue record.

The petitioner is aggrieved by the order dated 25.10.2005 passed in Miscellaneous Revision Case No. 12 of 2004 by the

respondent Commissioner, Koshi Division, Saharsa, as contained in Annexure-3, whereby the claim of settlement raised on behalf of the petitioner with respect to the lands in question has been disbelieved and a direction has been issued for initiation of proceeding under the provisions of The Public Land Encroachment Act, 1956 for removal of the encroachment from the lands in question.

In paragraph-9 of the writ petition it has been stated that the petitioner has already filed Title Suit No. 106 of 2000, pending before the learned Sub-Judge-3, Saharsa for declaration of survey entry with respect to the lands in question as “Sarbsadharan” as wrong and illegal. The learned counsel appearing on behalf of the petitioner submits that the aforesaid title suit is still pending before the civil court.

In the aforesaid factual matrices, this Court does not feel persuaded to interfere with the impugned order dated 25.10.2005 passed in Miscellaneous Revision Case No. 12 of 2004 by the respondent Commissioner, Koshi Division, Saharsa, as contained in Annexure-3 to the writ petition. Accordingly, the writ petition is dismissed. However, the petitioner shall be at liberty to raise all the issues of facts and law with respect to the lands in question in the aforesaid pending Title Suit No. 106 of 2000.

It is clarified that the aforesaid title suit filed by the petitioner shall be disposed of strictly in accordance with law on the basis of evidence/ materials produced by the parties including the State of Bihar and its functionaries, but without being prejudiced by the dismissal of the present writ petition by this Court.

(Birendra Prasad Verma, J)

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