

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5024 of 2014

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Bhagia Devi, Wife Of Late Sohar Gope, Resident Of Village Akauna
Minhai, P.S. Muffasil, District Nawada

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Collector, Nawada
3. The Additional Collector, District Nawada
4. The L.R.D.C. Nawada
5. The Circle Officer, Nawada, District Nawada

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Durgesh Nandan, Adv.

For the Respondent/s : Mr. Yogendra Pd. Sinha, AAG-15
Mr. Rakesh Ambastha, AC to AAG-15

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 24-06-2016

Heard the parties.

The petitioner has filed the present writ petition under Article 226 of the Constitution of India seeking a direction to the respondent Circle Officer, Nawada to receive rent from the petitioner and after receiving the same issue rent receipts in her favour with respect to several parcels of land, mentioned in paragraph 1 of the writ petition, total area being 16.25 acres.

Learned counsel appearing on behalf of the petitioner submits that the lands in question were settled in favour of the petitioner by the ex-landlord through Hukumnama before vesting of Jamindari. However, neither the year of settlement has been mentioned nor the document of alleged settlement has been brought on the record. He further submits that the ex-landlord submitted his return to the State of Bihar showing therein settlement of the lands in question in favour of the petitioner. However, copy of the aforesaid return has not been brought on



record. He next submitted that, though rent receipt was being issued to the petitioner, but suddenly it was stopped in the year 1985 on the ground that the lands in question has been recorded in the name of State of Bihar in the recent revisional survey khatian. He also contended that the petitioner filed a case under Section 106 of the B.T. Act, which was allowed by the Revenue Officer, Gaya, Nawada, Aurangabad on 07.09.1979 (Annexure-6), yet rent receipt is not being issued to the petitioner. By referring to the various other documents, he pointed out that the petitioner had approached the various authorities and had even approached this Court earlier in CWJC No.6807 of 2012, which was finally disposed of by an order dated 11.04.2012 (Annexure-25), yet the grievance of the petitioner is not being redressed. Hence, she has filed the present writ petition for issuance of an appropriate direction to the respondents for redressal of her valid grievances.

The matter has been contested by the respondents by filing a counter affidavit on behalf of the respondent nos.2 to 5. In the aforesaid counter affidavit, the right, title and possession of the petitioner over the lands in question have been strongly disputed and it has been asserted that the lands in question was never settled in favour of the petitioner by the ex-landlord and no such return was filed by the ex-landlord at the time of vesting of Jamindari. It has also been asserted that the lands in question was never in possession of the petitioner and the document showing the order dated 07.09.1979 (Annexure-6) allegedly passed under Section 106 of the B.T. Act is a forged and fabricated document. According to the respondents, no such order was passed on the basis of a petition filed by the petitioner.

Learned AAG-15 appearing on behalf of the



respondents submitted that the entire claims raised on behalf of the petitioner with respect to the lands in question in the present writ petition are based on forged and fabricated documents. According to him, no document of Hukumnama was ever issued by the ex-landlord nor the copy of the alleged Hukumnama has been brought on the record. He next contended that, indisputably, the lands in question have been recorded in the name of State of Bihar in the recent revisional survey khatian, but thereafter the son of the petitioner, who is hardened criminal and facing several criminal proceedings, has created certain documents for laying false claim over the lands in question. He also pointed out that, for committing forgery in the official records, FIR has been lodged against the petitioner and others. Therefore, according to him, the writ petition is liable to be dismissed.

After having heard the parties and on consideration of the materials available on the record, this Court is of the opinion that the claims raised on behalf of the petitioner with respect to the lands in question are based on disputed question of facts. Admittedly, the copy of the alleged Hukumnama has not been produced by the petitioner. Even date of settlement by the ex-landlord has not been mentioned. The copy of the return allegedly filed by the ex-landlord in the name of the petitioner with respect to the lands in question has not been produced. Indisputably, in the recent revisional survey khatian, the lands in question have been recorded in the name of State of Bihar. Even the genuineness of the documents regarding order dated 07.09.1979 (Annexure-6) passed by the Revenue Officer is under serious dispute and is said to be a forged document and for that FIR has been lodged against the petitioner and others.

In the aforesaid factual backdrop, this Court does not feel persuaded to accede to the prayer made in the present writ petition for issuance of a direction to the revenue authorities for issuance of rent receipts in favour of the petitioner with respect to the lands in question after accepting the rent from her. Accordingly, the writ petition is dismissed.

However, the petitioner, if so advised, shall be at liberty to approach the Civil Court of competent jurisdiction for getting her right, title and possession declared over the lands in question as also for grant of any other consequential relief.

If such a civil suit is filed on behalf of the petitioner within a period of three months from today, after impleading all the necessary parties including the respondents, then the same shall be decided on its own merits on the basis of the evidence/materials produced by the parties, but without being prejudiced by dismissal of the present writ petition by this Court.

(Birendra Prasad Verma, J)

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