

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22914 of 2013

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1. Akshay Kumar Singh Son of Late Chandrika Singh, Resident of Village - Indauli, P.S. Maharajganj, District - Siwan
 2. Ajay Kumar Singh Son of Late Chandrika Singh, Resident of Village - Indauli, P.S. Maharajganj, District - Siwan

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, Siwan
2. The Additional Collector, Siwan
3. The Sub - Divisional Officer, Maharajganj
4. The Anchal Adhikari, Maharajganj, District - Siwan
5. The Circle Inspector, Maharajganj, District - Siwan

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vitesh Kumar Singh

For the Respondent/s : Mr. Lalan Kumar, AC to GP-23

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 05-01-2016

Heard the parties.

By the impugned order dated 12.10.2012/ 07.12.2012 passed by the respondent District Collector-cum- District Magistrate, Siwan, as contained in Annexure-7, a direction has been issued for cancellation of Jamabandi No. 1897 and 2163 with respect to the lands in question on the ground that the lands in question was recorded as “Gairmajarua Aam” land (road) in the revenue records and the ex-landlord had no power to settle such land in favour of any private individual.

The learned counsel appearing on behalf of the petitioners submits that the lands in question was settled in favour of the ancestor of the petitioners by the ex-landlord. However, despite repeated query, he has not been able to show the document of alleged settlement.

From the materials available on the record and in view of the findings recorded by the respondent District Collector, it is

apparent that the very basis of claim of the petitioners over the lands in question is under serious dispute. The genuineness of the claim of settlement in favour of the ancestors of the petitioners by the ex-landlord is also under serious dispute, and this can be tested/examined only by recording evidence, which cannot be done in a proceeding under Article 226 of the Constitution of India.

In above view of the matter, this Court does not feel persuaded to interfere with the impugned order, as contained in Annexure-7, passed by the respondent District Collector, Siwan. However, the petitioners, if so advised, shall be at liberty to approach the civil court of competent jurisdiction for getting their right and title decided over the lands in question.

If such a civil suit is filed on behalf of the petitioners within a period of three months from today, after impleading all the necessary parties including the State of Bihar and its functionaries, then the same shall be considered and decided strictly in accordance with law, but without being prejudiced by dismissal of the present writ petition.

The writ petition stands dismissed with the observations made above.

(Birendra Prasad Verma, J)

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