

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6367 of 2013

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1. Dipak Kumar Singh @ Dipak Kumar
2. Dilip Kumar
Both sons of Late Narmadeshwar Prasad Singh @ Naro Singh, Resident Of
Village- Dhiwar, P.O- Chak Nawada, P.S- Pandarakh, Distt- Patna.

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Divisional Commissioner, Patna Division, Patna.
3. The Collector-Cum- District Magistrate, Patna.
4. The Sub- Divisional Officer, Barh, Distt- Patna.
5. The Deputy Collector, Land Reforms, Barh, Distt- Patna.
6. The B.D.O. Pandarakh, Distt- Patna.
7. The Circle Officer, Pandarakh, Distt- Patna.
8. The Circle Inspector, Pandarakh, Distt- Patna.
9. The S.H.O., Pandarakh, P.S- Distt- Patna.
10. Sri Shambhu Choudhary
11. Sri Vijindar Choudhary
12. Sri Tunni Choudhary
All sons of Late Sagar Choudhary, Resident Of Tola- Chaklapar, Village-
Dhibar, P.O- Chak Nawada, P.S- Pandarakh, District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sidhendra Narayan Singh, Adv.
For the Respondent nos.1to9 : Mr. Sunil Kumar Mandal, SC-24
Mr.Bipin Kumar, AC to SC-24
For the Respondent nos.10to12 : Mr.Apurva Kumar, Adv.
Mr.Mrigendra Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

7 04-04-2016

Heard the parties.

The petitioners have filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the order(s) passed in Settlement Case No.8 of 2009-10 as also the consequential Parwanas, as contained in Annexure-3 series, whereby some part of the lands of plot no.480 have been settled in favour of the private respondent nos.10 to 12 by the respondent authorities. They have also assailed the validity

and correctness of the communication dated 01.06.2011 issued by the Secretary to the Commissioner, Patna Division, Patna, as contained in Annexure-4, and the letter dated 26.02.2013 issued by the Anchal Adhikari/Circle Officer, Pandarak, as contained in Annexure-7 to the writ petition.

It appears that Settlement Case No.8 of 2009-10 was initiated for settlement of 19 decimals of lands of plots no.480 and 750 in favour of certain private individuals including the respondent nos.10 to 12. In the aforesaid settlement case, it has not been mentioned that under which provision of law aforesaid settlement case is being initiated. The private individuals including the respondent nos.10 to 12 are said to be the members belonging to Mahadalit class.

Learned counsel appearing on behalf of the petitioners submits that so far the lands of plot no.480 is concerned, that was subject matter of consideration in Title Suit No.40 of 1987 and by a judgment and decree dated 15.03.1993 (Annexure-2) title of the petitioners and their father was declared over the aforesaid plot of lands. The grievance of the writ petitioners is that though they are having their right, title and possession over the lands in question, but Parwanas have been issued in favour of the private respondents without giving them any opportunity of hearing and, therefore, according to him, the impugned Parwanas, as contained in Annexure-3 series, and consequential communications are fit to be set aside and quashed by this Court on the ground of violation of rules of natural justice.

The matter has been contested by the respondents. Separate sets of counter affidavits have been filed on behalf of the respondent nos.3, 4, 5 and 7 as also the respondent nos.10 to 12.



Learned SC-24 appearing on behalf of the official respondents as also the learned counsel appearing on behalf of the respondent nos.10 to 12 submit that the lands in question was recorded as Gair Mazarua Aam Land. Therefore, the lands in question have been settled in favour of the private respondent nos.10 to 12. However, despite repeated query, they have not been able to show that under which provision of law such proceeding was started. They have also not been able to show that before passing the impugned final order in the aforesaid settlement case or before issuance of Parwanas in question any opportunity of hearing was given to the petitioners. They have also not disputed the genuineness of the copy of the judgment and decree passed in the aforesaid Title Suit No.40 of 1987, which has been brought on record as Annexure-2. The only plea taken by them is that the State of Bihar was not a party in the aforesaid Title Suit and, therefore, that judgment and decree will not bind the State of Bihar and its functionaries.

After having heard the parties and on consideration of the materials available on the record, this Court is of the opinion that, in view of the judgment and decree passed by the Civil Court vide Annexure-2 declaring the title of the father of the petitioners over the lands in question, who is now dead, the petitioners were required to be heard before passing any final order by the competent authority. Before issuance of Parwanas in question the rules of natural justice have not been followed in the present case.

In above view of the matter, this Court is of the further opinion that the entire matter requires reconsideration and fresh decisions after giving an opportunity of hearing to the petitioners, besides others.

For the reasons recorded above, the Parwanas issued to the private respondent nos.10 to 12, as contained in Annexure-3 series to the writ petition, as also the communication dated 01.06.2011 (Annexure-4) and the communication dated 26.02.2013 issued by the respondent Anchal Adhikari, Pandarak (Annexure-7) are hereby quashed and set aside, and the matter is remitted back to the respondent S.D.O., Barh, district-Patna with a direction to decide the entire matter afresh after giving an opportunity of hearing to the petitioners as also the private respondent nos.10 to 12, besides others, if any.

In order to expedite the matter, the petitioners as also the private respondent nos.10 to 12 are hereby directed to appear before the respondent S.D.O., Barh, district-Patna within a period of two months from today with a certified copy of the present order, whereafter the respondent S.D.O., Barh, district-Patna shall proceed to decide the aforesaid matter afresh strictly in accordance with law. However, before passing any final order, an opportunity of hearing must be given to all concerned.

It is also clarified that 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.

In the result, the writ petition stands allowed to the extent indicated, but with the observations and directions made above. However, the parties are left to bear their own costs.

Arvind/-

(Birendra Prasad Verma, J)

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