

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15316 of 2013

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1. Ashok Singh Pita Swa Ramanand Singh Gram- Ramgarh, Thana- Karpi, Zila- Arwal
2. Rajdeo Prasad Verma Pita Swa Thakur Prasad Verma Gram- Babhana Tola, Mahmampur, Thana Wo Zila- Jehanabad
3. Ranjit Kumar Pits Swa0 Shiv Ratan Singh Gram- Aowa, Thana- Makhdumpur, Zila- Jehanabad

.... Petitioner/s

Versus

1. Bihar Rajya
2. Adhyaksh, Bihar Bhumi Nyayadhikaran, Patna
3. Ayukta, Magadh Pramandal, Gaya
4. Bhumi Sudhar Up-Samaharta, Gaya
5. Tatkalin Sahayak Bandobast Padadhikari, Gaya
6. Anchal Adhikari, Belaganj, Gaya
7. Rajaswa Karmachari, Rajaswa Gaon Harigaon, Thana No.- 345, Thana- Belaganj, Zila- Gaya
8. Ali Nat Pita Panchu Nat Gram Belaganj Bazar, Thana Wo Anchal- Belaganj, Zila- Gaya
9. Gafur Nat Pita Panchu Nat Gram Belaganj Bazar, Thana Wo Anchal- Belaganj, Zila- Gaya
10. Krishnadeo Lal Pita Swa Ram Prasad Lal Gram Belaganj Bazar, Thana- Belaganj, Zila- Gaya
11. Gaurishankar Lal Pita Swa Ram Prasad Lal Gram Belaganj Bazar, Thana- Belaganj, Zila- Gaya
12. Awadh Kishore Lal Pita Swa Ram Prasad Lal Gram Belaganj Bazar, Thana- Belaganj, Zila- Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. INDRADEO PRASAD

For the State Mr. MANOJ KR. AMBASTHA, GP 14

Mr. Subodh Kumar, AC to GP 14

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 21-04-2016

Heard Mr. Indradeo Prasad for the petitioners and AC to GP 14 for the State.

In respect of a dispute pertaining to a piece of land, a proceeding was levied by the petitioners before the Deputy Collector, Land Reforms under the

Bihar Land Disputes Resolution Act, 2009 (for short 'the Act') vide Case No. 71 of 2011-12. The same was allowed vide order dated 17.10.2011 (Annexure-1). Aggrieved thereby the private respondents filed an appeal before the Divisional Commissioner vide Appeal No. 174 of 2011. By a reasoned order dated 05.10.2012, the appeal was allowed. The claim of the writ petitioners was negated. The appellate authority in doing so observed as under:-

“The respondent, on the basis of alleged unregistered Hukumnama alleged to be executed by the ex-landlord in the year 1931, in respect to appellants' land stated above, have reportedly filed a regular title suit in the court of Munsif III Gaya for declaration of their title and assailed the title of Panchu Nat, the father of the vendors of appellant and the said title suit on transfer of Additional Munsif Court Gaya being no. 8/2009, 20/2004 is still pending for evidence. There is nothing on record to suggest that the order of the Assistant Settlement Officer passed in 1973 and 1976 was ever challenged at the competent level. The appellants have also been paying rent for the instant land. Even if the issues and the reliefs sought in the aforesaid civil suit were, for the sake of argument, different, the respondents still can seek its adjudication in a competent civil court. The civil court is the appropriate forum for deciding complex matters of title. In the ruling mentioned in PLJR 2012(3) page 214 it has been clearly held that the BLDR Act does not oust the jurisdiction of Civil Court in appropriate cases.”

The aforesaid order was assailed by the petitioner before the Tribunal constituted under the Bihar Land Tribunal Act, 2009 which was admitted to

hearing on 23.11.2012 The full bench of the Tribunal heard the matter and disposed of the same on 14.05.2013. Two learned Members of the Tribunal concurred with the views expressed by the appellate authority i.e. Divisional Commissioner and refused to grant any relief to the petitioners. The third learned Member, however, passed a separate order and observed that it was a fit case where the Collector should have initiated a proceeding under section 4(h) of the Bihar Land Reforms Act. Accordingly a direction was issued to the said effect.

Mr. Prasad submits that the order passed by the one learned Member of the bench is correct and the same should be directed to be carried out by the respondents. It is next contended that the Tribunal got the jurisdiction in the matter only by a notification published in the gazette on 30.01.2013. The order, therefore, suffers from lack of jurisdiction.

In contrast, the State Counsel submits that the petitioner, on his own, submitted to the jurisdiction of the Tribunal and did not raise any issue of the jurisdiction when the order was passed by the Tribunal. The Tribunal had the requisite jurisdiction when the final order was passed. Adverting to the next contention of the petitioner, he draws attention of the Court to the statutory provision in Rule 22 of the Bihar Land Tribunal Rules, 2010 which reads as under:-

*“22. **Decision to be by majority-** If members of the Tribunal differ in opinion on any point, the point shall be decided according to the opinion of the majority.”*

Even otherwise, the law is settled. The view of the majority is to be considered as the view of the Tribunal or the Court. This Court finds no substance in the submission of the petitioners on this score.

In view of the aforesaid discussion, I find no merit in this writ application which is dismissed.

(Kishore Kumar Mandal, J)

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