

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14281 of 2014

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Atal Bihari, son of Raja Ram Singh, Resident of Mohalla Purani Sahar,
Police Station Daud Nagar, District Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Commissioner, Magadh Pramandal, Gaya.
3. Land Reforms Deputy Collector, Daud Nagar, Aurangabad.
4. Dr. Chandra Kishore Prasad Sinha, son of Late Murlidhar Prasad,
Resident of Mohalla Kanduramki Gali, P.O. + Police Station - Daudnagar,
District Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Waliur Rahman, Adv.

For the Respondent nos.1to3 : Mr. S.D.Yadav, AAG-IX

Mr.Sachindra Kumar Tiwari, AC to AAG-IX

For the Respondent no.4 : Mr.Vikas Mohan, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 17-11-2016 Heard the learned counsel for the petitioner, the
learned AAG-9 appearing on behalf of the respondent nos.1 to 3
and the learned counsel appearing on behalf of the respondent
no.4.

The petitioner is aggrieved by the order dated
02.04.2013 passed in Land Dispute Case No.80 of 2012-13 by the
respondent D.C.L.R., Daudnagar, as contained in Annexure-4 to
the writ petition, whereby the aforesaid case filed on behalf of the
respondent no.4 under the provisions of The Bihar Land Disputes
Resolution Act, 2009 (in short 'Act, 2009') has been allowed. The
petitioner is also aggrieved by the order dated 10.10.2013 passed
in Land Dispute Resolution Appeal No.207 of 2012-13 by the
respondent Divisional Commissioner, Gaya, as contained in
Annexure-5 to the writ petition, whereby the aforesaid appeal filed
on behalf of the petitioner has been dismissed on the ground of

limitation.

It is the common case of the parties that the petitioner or the respondent no.4 do not claim the lands in question, fully detailed in paragraph 2 of the writ petition, on the basis of the settlement made in favour of either party under the provisions of any of the Acts mentioned in schedule I of the Act, 2009. It is also common case of the parties that a regular suit was fought by the parties with respect to the lands in question, filed by the petitioner before the Civil Court of competent jurisdiction for declaration of his right and title, and for confirmation of the possession, but that was dismissed. The appeal preferred on behalf of the petitioner was also dismissed. Thereafter, the petitioner filed Second Appeal no.134 of 2009, which has been admitted by this Court by an order dated 10.05.2012 (Annexure-1).

The learned counsel appearing on behalf of the petitioner as also the respondent no.4 are unanimous in their submissions that the aforesaid Second Appeal is still pending.

From the pleadings of the parties, it is apparent that there is a serious dispute of right, title and possession between the parties with respect to the lands in question and those issues are required to be finally adjudicated by this Court in the aforesaid pending Second Appeal. In view of the fact that neither the petitioner nor the respondent no.4 claim settlement of the lands in question under the provisions of any of the Acts mentioned in schedule I of the Act, 2009 and further in view of the fact that a regular suit was fought between the parties, the petition filed on behalf of the respondent no.4 before the D.C.L.R., Daudnagar under the provisions of the Act, 2009 was not maintainable. Therefore, the impugned order passed by the respondent D.C.L.R.

is wholly without jurisdiction and cannot be sustained in law.

In above view of the matter, the impugned original order dated 02.04.2013 passed in Land Dispute Case No.80 of 2012-13 by the respondent D.C.L.R., Daudnagar, as contained in Annexure-4 to the writ petition, and the impugned appellate order dated 10.10.2013 passed in Land Dispute Resolution Appeal No.207 of 2012-13 by the respondent Divisional Commissioner, Gaya, as contained in Annexure-5 to the writ petition, are hereby set aside and quashed with a liberty to the parties to raise all the issues of the facts and law, which may be available to them with respect to the lands in question, in the pending Second Appeal No.134 of 2009.

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.

(Birendra Prasad Verma, J)

Arvind/-

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