

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9182 of 2015

=====

Dularchand Dhangar Son of Late Thagan Dhangar, Resident of Village- Baligarh, P.O. Runnisaidpur, District- Sitamarhi, President of Bihar Anushuchit Jati (Dhangar) Attyachar Virodhi, Morcha, Bihar, Patna "Sivir Karyalaya", Runnisaidpur, Sitamarhi.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Land Revenue Dept., Govt. of Bihar, Patna.
2. The State of Bihar (Through the Director, Land Records & Survey), Govt. of Bihar, Patna.
3. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
4. District Magistrate, Sitamarhi.
5. The Director of Survey & Settlement, Bihar, Patna.
6. The Director of Consolidations of Holdings & Prevention of Fragmentation of Holdings, Bihar, Patna.
7. The Survey & Settlement Officer, Muzaffarpur, Sitamarhi & Vaishali.
8. The Deputy Director, Consolidation and Prevention of Fragmentation of Holdings, Muzaffarpur.
9. The Additional Collector, Sitamarhi.
10. The L.R.D.C., Sitamarhi Sadar, District, District- Sitamarhi.
11. The Sub- Divisional Officer, Sitamarhi.
12. The Anchal Adhikari, Runnisaidpur Anchal, District Sitamarhi.
13. Anuradha Mehta D/o Rabindra Nath Mehta Resident of Runnisaidpur, P.O.+P.S. Runnisaidpur, District- Sitamarhi.
14. Prashanjeet Mehta Son of Pashupati Nath, Resident of Runnisaidpur, P.O.+P.S. Runnisaidpur, District- Sitamarhi.
15. Smt. Usha Kapur, Daughter of Pratibha Devi, Resident of Runnisaidpur, P.O.+P.S. Runnisaidpur, District- Sitamarhi.
16. Dharm Pratap Mehta, Daughter of Savitri Mehta Resident of Runnisaidpur, P.O.+P.S. Runnisaidpur, District- Sitamarhi.
17. Arbind Poddar Son of Unknown Resident of Jawahar Lal Road, Muzaffarpur, P.O. + P.S.- Runnisaidpur, District - Sitamarhi
18. Ramchandra Rai, Son of Late Ram Swarth Rai
19. Ashok Rai Son of Sri Rameshwar Rai
20. Nageshwar Rai Son of Jagdeep Rai
21. Ramdeo Rai Son of Late Deendayal Rai
22. Singheshwar Mahto Son of Late Phanni Mahto
23. Bindeshwar Mandal Son of Late Jugal Mandal
24. Sikandar Mahto Son of Late Surya Bansh Mahto
25. Puran Mahto Son of Late Jaylal Mahto.
26. Julum Mahto Son of Raja Ram Mahto, All are resident of Runnisaidpur, P.O.+P.S. Runnisaidpur, District Sitamarhi.
27. Bhola Mahto Son of Asharphi Mahto
28. Rabindra Mahto Son of Asharphi Mahto
29. Guddi Devi, M.L.A., Wife of Rajesh Choudhary



All resident of Runni Saidpur, P.S. + P.O. Runnisaidpur, District- Sitamarhi + 3-4
Hundred Purcha Holders

.... Respondents

=====

Appearance:

For the Petitioner/s : Mr. Daya Shanker Prasad, Advocate.
Mr. Gautam Saha, Advocate.

For the Respondent/s :

=====

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 14-12-2016

The present writ application in public interest is said to be representing Dhangar caste - Scheduled Tribe families who were said to be in possession of 379.66 acres land situated at Baligarh (Runni Saidpur) in the district of Sitamarhi.

2. The grievance of the petitioner on behalf of the entire community is that their names were removed from the record of rights with connivance of the local civil officials in the year 1962 without giving them notice or affording opportunity of hearing or making any spot verification. It is also pointed out that the aggrieved families have taken recourse to the title suit for cancellation of Jamabandi (record of rights) manipulated in the Revisional Survey seeking prayer for restoration of possession to them, but nothing tangible emerged so far. It is also pointed out that the petitioner has



earlier filed a public interest litigation bearing CWJC No. 8552 of 2001 (Sri Dularchand Dhangar Vs. the State of Bihar & Ors.) which was dismissed on 10.07.2001 with an observation that the petitioners may first address their problems to elected representatives.

3. The grievance of the petitioner is that though the title suit is pending, the matter has not been concluded. On the other hand, the petitioner and other affected families have been dispossessed from the land from their possession, therefore, this court in public interest should intervene and restore the possession of the petitioner and other affected families.

4. A perusal of the averments made in the writ application shows that the name of the petitioner and other affected families were removed from the record of rights in the year 1962. The aggrieved persons are before Civil Court in a title suit filed in the year 2005. The writ application filed by the petitioner was dismissed on 10.07.2001, when the following order was passed.

“One Sri Dularchand Dhangar has brought this petition as a public interest litigation. The Court cannot help but record on the impassioned plea which has been made by the counsel that the revenue records, as are lying, are forged and there have been irregular ceiling proceedings and that families called “Dhangar” are the progenies of the workers on the indigo plantations and that they need to be settled instead



of being evicted.

Entries in revenue records are acknowledged as also submissions have been made that there have been ceiling proceedings by which memos were given to the present land holders.

The contention of learned counsel on this petition appears to be as if this is a petition of right. The court cannot lend its jurisdiction to insist that a petition be entertained. The court did enquire that, indeed, if the Dhangar families had any grievance had they at any stage contacted their elected representatives since the year of the republic. No satisfactory answer was forth coming.

The Court cannot open its door straightway for public interest litigation on untested claims. Even on the submissions made it is clear that as the revenue records stand recorded there have been ceiling proceedings, on the basis of which those who occupy the lands have been issued papers.

The court cannot go into a fact finding enquiry as the petitioners may first address their problems to their elected representatives.

The petition is misconceived and is, accordingly dismissed.”

5. The question as to whether the petitioner and other affected families are in possession or what is their right, title and interest are the disputed questions of fact. Admittedly, the record of rights was corrected in the year 1962. Therefore, the question regarding right, title and interest of the petitioner and other affected families cannot be examined in the writ petition filed in the year



2015, more so when earlier writ petition was dismissed on the same ground.

6. We find that the present writ application is wholly misconceived and is, accordingly, dismissed.

(Hemant Gupta, ACJ)

(Arvind Srivastava, J)

Mishra

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	17.12.2016
Transmission Date	

