

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 8041 of 2014

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Yashoda Devi @ Yashoda Devi Kamalia wife of Late Vishwanath Prasad Kamalia,
resident of at and P.S. Warshaliganj, District- Nawada.

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, Nawada.
2. The Anchaladhikari, Rajauli, District- Nawada.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Sinha, Sr. Advocate
Mr. Bhola Kumar, Advocate

For the State : Mr. Prabhaker Dwivedi, A.C. to S.C. 5

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 24-11-2016

Heard learned counsel for the parties.

The petitioner has moved the Court to direct the
respondent authority to open a demand in her name.

Learned counsel submitted that the lands in question
are the ancestral lands of the petitioner but due to wrong entry made
in the survey khatian, the said lands were recorded as *Anabad Bihar*
Sarkar. It was submitted that the petitioner filed Title Suit No. 82 of
1989/41 of 1985, for a declaration that the suit land was owned by
the petitioner and the entry made in the survey khatian during the
revisional survey operation was wrong and for confirmation of
possession of the suit land. It was submitted that the suit was decreed



in favour of the petitioner by judgment dated 29.03.1996 and the Title Appeal No. 13 of 1996/26 of 2003, filed by the State was also dismissed by judgment dated 11.10.2004. Learned counsel submitted that pursuant thereto an application was filed before the respondent no. 2, for creation of demand, which is still pending.

Learned counsel for the State, relying upon the counter affidavit, submits that the petitioner, by her conduct has given up claim on the lands and was also not in possession of the same for many decades resulting in the lands being settled with landless persons during the years 1992-97 and pursuant to demand opened in the name of the settlees, rent receipts have also been issued to them.

Be that as it may, the matter relating to opening of a demand depends upon various factors, including possession, which has to be thoroughly gone into by the authorities concerned before passing any order. In the present case, admittedly, the authorities have not taken a final decision on the application filed by the petitioner with regard to opening of demand relating to the lands in question.

In view of the aforesaid, the writ application stands disposed off with a direction to the respondent no. 2 to pass final orders on the application made by the petitioner relating to creation of demand of the lands in question, in accordance with law, within

six months from the date of production of a copy of this order before it. It is clarified that the Court has not expressed any opinion with regard to the merit of the matter and the authorities shall act in accordance with law after proper enquiry and also after giving opportunity of hearing to the petitioner and all concerned.

(Ahsanuddin Amanullah, J.)

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