

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22059 of 2013

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Md. Sheru Son of Late Abdul Hai, Dargarh Road, P.S.- Sultanganj, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Land Reforms and Revenue, Government of Bihar, Patna
2. District Collector, Patna
3. Additional Collector, Patna
4. Deputy Collector, Land Reforms, Patna City
5. Circle Officer, Patna Sadar, District- Patna
6. Mahavir Chaudhary Son of Late Dholan Chaudhary, Resident of Mohalla- Musallahpur, P.S.- Sultanganj, District- Patna
7. Most. Marichia Devi Wife of Late Vasybdei Chaudhary, Resident of Mohalla- Sandalpur, Police Station Sultanganj, District- Patna
8. Kameshwar Chaudhary Son of Ram Charitra Mahto, Resident of Sandalpur, Police Station Sultanganj, District- Patna

.... Respondent/s

with

Civil Writ Jurisdiction Case No.10533 of 2011

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Most.Marachiya Devi W/O Late Basudeo Chaudhary, R/O Village- Sanalpur, P.S.-Sultanganj, Distt.-Patna

.... Petitioner/s

Versus

1. The State of Bihar through Collector, Patna
2. Collector, Collectorat, Patna
3. Secretary, Department of Land Reform Secretariate, Patna
4. Circle Officer (Anchaladhikari), Patna Sadar, Patna
5. Deputy Collector Of Land Reform (D.C.L.R.), Patnacity, Patna
6. Md. Sheru S/O Late Md. Abdul Hai, R/O Mohalla-Dargah Road, P.S.- Sultanganj, Distt.- Patna
7. Mahabir Chaudhary S/O Late Dholan Chaudhary, R/O Mohalla- Mohalla, Mussallahpur, P.S.-Pirbahore, Distt.-Patna
8. Ram Dhani Chaudhary S/O Late Dholan Chaudhary R/O Mohalla- Mohalla, Mussallahpur, P.S.-Pirbahore, Distt.-Patna
9. Jagdish Chaudhary S/O Late Dholan Chaudhary, R/O Mohalla- Mohalla, Mussallahpur, P.S.-Pirbahore, Distt.-Patna
10. Jagarnath Chaudhary S/O Late Dholan Chaudhary, R/O Mohalla- Mohalla, Mussallahpur, P.S.-Pirbahore, Distt.-Patna
11. Kameshwar Prasad S/O Ram Charitra Mahto, R/O Mohalla-Mohalla, Mussallahpur, P.S.-Pirbahore, Distt.-Patna

.... Respondent/s

with

Civil Writ Jurisdiction Case No.13076 of 2010

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Md.Mustafa Kamal ,@Mustafa Kamal S/O Late Abdul Rahman, R/O

Vill.- Dargah Road,P.S.- Sultanganj,Dist.- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through Secretary, Department of Land Reforms, Govt.of Bihar, Patna.
2. District Magistrate, Patna
3. Deputy Collector, Land Reforms, Patna City District-Patna.
4. Anchal Adhikari, Patna Sadar, Dist.-Patna.
5. Basudeo Choudhary S/O Nandi Choudhary, R/O Moh.- Dargah Road, P.S.- Sultanganj, Dist.-Patna.
6. Md.Sheru Late Md.Abdul, R/O Moh.- Dargah Road, P.S.-Sultanganj, Dist.-Patna.

.... Respondent/s

Appearance :

(In CWJC No.22059 of 2013)

For the Petitioner/s : Mr. Kali Prasanna Dubey

For the Respondent No.1 to 5 : Mr. Sunil Kr. Mandal, SC-24

Mr. Bipin Kumar, AC to SC-24

For the Respondent No.7 : Mr. Ashok Kumar

For the Proposed Respondent No.9: Mr. Dronacharya

Mr. Vijay Bardhan Pandey

(In CWJC No.10533 of 2011)

For the Petitioner/s : Mr. Ashok Kumar

For the Respondent No.1 to 5 : Mr. Sunil Kr. Mandal, SC-24

(In CWJC No.13076 of 2010)

For the Petitioner/s : Mr. Dhananjay Kumar

For the Respondent No.1 to 4: Mr.

For the Respondent No.6 : Mr. Kali Prasanna Dubey

For the Intervenor : Mr. Jawed Gaffar Khan

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL Judgment

5 04-04-2016

In all the above three writ petitions, issues of facts are inter connected to each other; therefore, on the request of the parties, all the three writ petitions have been heard together and are being disposed of by this common judgment.

2. All the above three writ petitions arise out of a mutation proceeding with respect to the parcels of lands appertaining to Tauzi no. 303, khata no. 437, C.S. plot No. 791, situate at Mohalla- Sandalpur, P.S. Sultanganj in the town and district of Patna (hereinafter to be referred to as lands in dispute).



3. In CWJC No. 22059 of 2013, the petitioner is aggrieved by the order dated 15.09.2012 passed in Mutation Revision Case No. 23 of 2007-08 by the respondent Additional Collector, Patna, as contained in Annexure-3, whereby the aforesaid mutation revision case, filed on behalf of the respondent no. 6-Mahavir Chaudhary has been allowed and the order dated 16.10.2007 passed by the respondent DCLR, Patna City in Misc. Case No. 9 of 2004-05, has been set aside and the matter has been remitted back to the D.C.L.R. Patna City with a direction to decide the claim of the parties under the provisions of The Bihar Land Disputes Resolution Act, 2009 (In short 'Act, 2009').

4. In CWJC No. 10533 of 2011 as also CWJC No. 13076 of 2010, the order dated 16.10.2007 passed in Misc. Case No. 9 of 2004-05 by the D.C.L.R. Patna City, which has already been set aside by the revisional order dated 15.09.2012 by the Additional Collector, Patna vide order contained in Annexure-3 of C.W.J.C. No. 22059 of 2013, as noticed above, is the subject matter of challenge. In view of the undisputed position that the aforesaid order dated 16.10.2007 passed in Misc. Case No. 9 of 2004-05 by the respondent D.C.L.R., Patna City, has already been set aside by the Additional Collector, Patna by his order dated 15.09.2012; therefore, the aforesaid two writ petitions viz CWJC No. 10533 of 2011 and CWJC No. 13076 of 2010 have practically become infructuous.

5. However, this is not the end of the matter. Indisputably, with respect to lands in dispute, Title Suit No. 77 of 2005 has already been filed by Md. Sheru- the writ petitioner of CWJC No. 22059 of 2013, wherein the private respondents of that writ petition as also the writ petitioners and the remaining private

respondents of CWJC No. 10533 of 2011 and CWJC No. 13076 of 2010 are parties either by way of defendants or by way of intervenors.

6. The claims raised on behalf of the parties with respect to the lands in dispute are based on a Sada-hukumnama or some sort of settlement or of purchase/ transfer made by some co-operative society, which is also a party in the aforesaid pending title suit.

7. In view of rival claims of the parties with respect to lands in dispute, in the considered opinion of this Court, unless and until the issues of title of the parties over the lands in dispute are decided by the competent civil court, the issue of possession cannot be effectively resolved by the revenue authorities by passing order in mutation proceeding. The impugned revisional order passed by the Additional Collector, Patna that the matter be decided afresh by the competent authority i.e. D.C.L.R., Patna City under the provisions of the Act, 2009 cannot be countenanced, since the competent authority cannot decide the complex question of title based on Sada- hukumnama or settlement/ transfer made by some co-operative society. This would be beyond the scope of Section 4 of the Act, 2009.

8. In above view of the matter, the impugned revisional order dated 15.09.2012 passed in Mutation Revision Case No. 23 of 2007 by the Additional Collector, Patna, as also the order dated 16.10.2007 passed in Miscellaneous Case No. 9 of 2004-05 by the respondent D.C.L.R., Patna City, are hereby set aside and quashed, and all the parties are given liberty to raise all the issues of facts and law with respect to the lands in dispute, which are available to them, in aforesaid pending Title Suit No. 77 of 2005.

The learned Sub-Judge-5, Patna City, who is said to be in seisin of the aforesaid pending title suit, shall take up the aforesaid title suit on priority basis and shall make all endeavour to decide the same at an early date strictly in accordance with law on the basis of evidence/ material produced by the parties.

9. It is clarified that if any of the parties in these proceedings have died during the pendency of this batch of writ petitions, then the plaintiff of that suit shall file appropriate substitution petition in the pending title suit for their substitution, whereafter the heirs and legal representatives of such deceased person(s) shall be given opportunity of hearing by the civil court before passing any final judgment and decree in the aforesaid pending title suit.

10. It is further clarified that the parties shall be at liberty to approach the civil court for grant of interim relief in the aforesaid pending title suit, if cause of action so arises.

11. In the result, all the above three writ petitions stand allowed to the extent indicated, but with the observations and directions made above. However, the parties are directed to bear their own costs.

(Birendra Prasad Verma, J)

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