

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11621 of 2014

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Suman Kumar son of Shri Nand Lal Sao, resident of Village - Bithosharif, Police Station - Chandautei, District - Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Gaya.
3. The Additional Collector (Naxal), Gaya.
4. The Deputy Collector of Land Reforms, Gaya Sadar, Gaya.
5. The Circle Officer, Town Block, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ansul, Adv.

For the Respondent/s : Mr. Sheo Shankar Prasad, SC-8

Mr. Praveen Kr. Singh, AC to SC-8

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 26-09-2016

Heard the parties.

The petitioner has filed the present writ petition under Article 226 of the Constitution of India seeking a direction to the respondent authorities for issuance of rent receipts in his favour with respect to the lands in question, mentioned in paragraph-1 itself.

The learned counsel appearing on behalf of the petitioner submits that earlier Jamabandi was created in favour of the father of the petitioner, but subsequently, jamabandi was created in favour of one Lakhan Sao, the uncle of the present petitioner. According to him, since it was found that the aforesaid jamabandi in favour of aforesaid Lakhan Sao was based on a forged document, therefore, it was cancelled and an F.I.R. was lodged against him. It is contended that in above view of the matter, the authorities may be directed to issue rent receipt in favour of the petitioner.



In response to a query of this Court, the learned counsel appearing on behalf of the petitioner has fairly conceded that his cousins viz Munna Sao, Anil Sao, Ram Shankar Sao and Ravi Kumar, all sons of late Lakhan Sao have already filed Title (Partition) Suit No. 219 of 2007 in the court of the learned Sub-Judge-I, Gaya in which the lands in question is subject matter of consideration and in which father of the petitioner is a defendant. It is contended that on account of pendency of the aforesaid Title (Partition) Suit, the respondent Circle Officer has wrongly stayed the mutation case filed by the father of the petitioner.

In the present case, a counter-affidavit has been filed on behalf of the respondent nos. 2 to 5 wherein it has been admitted that the lands in question was earlier mutated in the name of the father of the petitioner, but subsequently it was cancelled by the Circle Officer since it was found that the order of mutation was passed on the basis of forged and fabricated signature and thereafter Jamabandi was created in the name of the previous landlord. It has further been admitted in paragraph-5 of the counter-affidavit that fresh application for mutation filed by the father of the petitioner was stayed in view of pendency of Title (Partition) Suit No. 219 of 2007 in the court of the learned Civil Judge, Senior Division-I, Gaya.

From the facts pleaded by the parties, it is apparent that a civil suit is pending in the court of civil Judge, Senior Division-I, Gaya with respect to the lands in question. Apparently, aforesaid civil suit has been brought by none else, but by the own cousins of the petitioner. In the present writ petition, for the reasons best known to the petitioner, the aforesaid persons have not been impleaded as party respondents, though they are also laying their claim over the lands in question. Indisputably, both sides are co-sharers and descendants of

their common ancestor. It is apparent that in view of the pendency of the aforesaid civil suit, the respondent Circle Officer stayed the proceeding filed on behalf of the father of the petitioner for mutation of the lands in question in his favour.

In the aforesaid factual matrices particularly in the background that civil suit is pending between the parties with respect to the same set of lands and further in the background that the other persons, who are claiming the lands in question, have not been impleaded as party respondents, the reliefs sought for by the petitioner in the present writ petition cannot be granted.

The writ petition is devoid of merit and it is, accordingly, dismissed. However, the petitioner, if so advised, shall be at liberty to appear in the aforesaid civil suit pending at civil court, Gaya and contest the same. If he succeeds in the aforesaid civil suit, then he shall be at liberty to file an appropriate application before the prescribed statutory authority either for mutation of his name or for creation of Jamabandi in his favour with respect to the lands in question.

(Birendra Prasad Verma, J)

BTiwary/-

AFR/NAFR	
CAV DATE	
Uploading Date	28-09-2016
Transmission Date	