

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9869 of 2015

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1. Bashishth Muni Dubey, S/o- Late Umanath Dubey,
2. Ram Kripal Dubey, S/o- Late Vishwanath Dubey,
3. Anjani Kant Dubey, S/o- Late Ramashankar Dubey.
4. Akeshnath Dubey, S/o- Late HArasudayal Dubey.
5. Ramakant Upadhyay, S/o- Late Sidhnath Upadhyay.
6. Sri Bhagwan Chaudhary, S/o- Late Lakshuman Choudhary. null
7. Ram Niwas Dubey, S/o- Late Surya Kumar Dubey.
8. Sarla Devi, W/o- Late Ramchandra Chaudhary. All are R/o Village-
Tetarhar, P.O.- Sikraul, P.S.- Sikraul, Block- Nawanagar, District- Buxer
(Bihar).

.... Petitioners

Versus

1. Ashok Kumar Chaudhary.
2. Anil Kumar Chaudhary.
3. Sunil Kumar Chaudhary. All are sons of - Late Baidhnath Chaudhary,
R/o Village- Tetarhar, P.O.- Sikraul, P.S.- Sikraul, Block- Nawanagar,
District- Buxer (Bihar).
4. Mukhiya Gram Panchayat Tetrahar (Sikraul), P.S.- Sikraul, Block-
Nawanagar, District- Buxer (Bihar).
5. The District Magistrate, District- Buxer, Govt. of Bihar, Patna.
6. The D.C.L.R., Dumraon, District- Buxer.
7. The Circle Officer, Block- Nawanagar, District- Buxer.

.... Respondents

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Appearance:

For the Petitioners : Mr. Vishwajeet Kumar Mishra
For the Respondents : Mr. Ramadhar Singh
For the State : SC to G.A.9

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 26-04-2016 Heard learned counsel, Mr. Vishwajeet Kuamr

Mishra, for the petitioners and Mr. SC to G.A.9 for the State and

Mr. Ramadhar Singh, for the respondents.

It appears that the plaintiffs-petitioners filed the

Suit for declaration that the settlement made by the State

authorities in favour of the respondent nos. 1, 2 and 3 is illegal.



Thereafter, the injunction application was filed praying for restraining the defendant-respondent nos. 1, 2 and 3 changing the nature of the Suit land. The defendants replied to the injunction application and it is alleged by the State authorities that, in fact, the Suit land is not a ditch and it is in possession of the defendants-respondents nos. 1, 2 and 3. Therefore, the same was settled in their favour. The learned Court below granted the injunction. The respondent nos. 1, 2 and 3 thereafter filed the appeal. The lower appellate court found that the Trial Court granted the injunction without considering the three ingredients for the grant of injunction and therefore he himself considered the three ingredients and found the same against the plaintiff and then set aside the order of the Trial Court.

Admittedly, the petitioners are the villagers and the Suit has been filed in the representative capacity. They are not claiming title over the Suit property. Their case is only that they used the Suit land. It is admitted fact that the State of Bihar represents the interest of the public at large and the State authorities case is that the defendant nos. 1, 2 and three were in possession of the property and was utilized by them and therefore according to rules, settlement has been made. In such circumstances, when the petitioners are not claiming for title over

the Suit property only on the basis of right of user, it can be said that the petitioners have also got no prima-facie case for the grant of injunction. I, therefore, find no reason to interfere with the order passed by the Lower Court. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Mishra/-

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