

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.256 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 536 of 2009

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1. Ram Pujan Sharma, Son of Late Chuli Sharma
 2. Vijay Kumar Sharma, Son of Ram Pujan Sharma, Both Residents of Village- Braahmpur, P.O.- Kirkir, P.S.- Sahar, District- Bhojpur
 3. Rama Kanta Tiwary, Son of Late Ram Lakhan Tiwary, Resident of Village and P.O.- Chilhar, P.S.- Sahar, District- Bhojpur

.... Appellant/s

Versus

1. The State Of Bihar Through The Collector, Bhojpur, Ara
 2. The Superintendent Of Survey, Bhojpur, Ara
 3. The Incharge Officer-Cum-Assistant Superintendent Of Survey, Bhojpur, Ara
 4. The District Superintendent Of Education, Bhojpur, Ara
 5. The Headmaster, Rajkiya Prathmik Vidyalaya, Jawahar Tola, Ara (School Commonly Known As Harijan School, Jawahar Tola, Ara), P.S.- Ara- Nawada, District- Bhojpur
 6. The Education Department, State Of Bihar Through District Superintendent Of Education, Bhojpur, Ara
 7. Smt. Deepika Bhattacharya, Head Mistress, Rajkiya Prathmik Vidyalaya, Jawahar Tola, Ara, P.S.- Ara-Nawada, District- Bhojpur
 8. Deoki Prasad
 9. Jitendra Prasad Sharma, Both Nos. 8 and 9 are Sons of Late Munshi Mistri
 10. Deyanti Devi, Daughter Of Late Tilak Chand Sharma
 11. Awadhesh Sharma
 12. Ayodhya Sharma
 13. Suresh Sharma
 14. Mahesh Sharma - Nos. 11 to 14, Sons Of Late Sita Ram Sharma
 15. Pappu Sharma
 16. Guddu Sharma
 17. Amar Sharma, Nos. 15 To 17 are Sons of Late Kesho Sharma
 18. Sheo Shankar Sharma
 19. Inder Sharma
 20. Devenand Sharma, Nos. 18 To 20 Are Sons of Mitra Ram Sharma
 21. Deo Brat Sharma
 22. Priya Brat Sharma, Nos. 21 and 22 are Sons Of Late Ram Jiwan Sharma
- Respondent Nos. 8 To 22 are Residents Of Mohalla- Bahrio, East Railway Gumti, Lock No.11, P.S.- Ara-Nawada, P.O.- Ara, District- Bhojpur

.... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. K N Choubey, Sr. Advocate Mr. Ambuj Nayan Choubey Mr. Animesh Kumar, Mr. Dineshwar Pandey Mr. Ashok Kumar Garg, Mr. Yogendra Dwivedi
For the State	:	Mr. Manoj Kumar Ambastha, SC 26

For Respondent No. 7 : Mr. Sachchida Nand Singh

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 27-07-2016

The order dated 2nd July, 2013 passed by the learned Single Bench of this Court in CWJC No. 536 of 2009 is the subject matter of challenge in the present Letters Patent Appeal. By the order impugned, liberty has been given to the appellants to seek appropriate declaration invoking the jurisdiction of the Civil Court in respect of their claim.

The appellants claim to be the purchasers of the land and that was recorded as owners of the same. It was after 22 years of recording of their names in the revenue record, an application was filed for correction of revenue record which was allowed vide order Annexure-4 series to the writ petition. It was the said order which was the subject matter of challenge before the learned Single Bench.

The Court found that though there is delay of 22 years in seeking correction of the revenue records, but the fact remains that the land in question was gifted to the school for construction of a building and that school is running since 1938, which is a Government school. Since the appellants are asserting their right, title and possession over the land, therefore, it was observed that they can invoke the

jurisdiction of the Civil Court.

Learned counsel for the appellants has vehemently argued that there is no cause for the Survey Superintendent to interfere in the correction of the revenue records after 22 years which is unexplained delay. It is further asserted that the Headmaster of the school has invoked the jurisdiction of the Survey Superintendent who had no jurisdiction to entertain such remedy. In case the Headmaster or the Government has a claim over the land in question, it is the Government should approach the Civil Court and not the appellants.

We do not find any merit in the arguments raised. The fact remains that the appellants are asserting their right and title over the land in question which is in possession of a Government school. Therefore, it is for the appellants to establish their title over the land in question from the Civil Court. Admittedly, it is a dispute regarding title. Whether the appellants invoke the jurisdiction of the Civil Court or the Government, the question would remain a disputed question of fact and that such issue is to be decided by the Civil Court. The mere fact that it has been observed that the appellants may invoke the jurisdiction of the Civil Court would not mean that there is no disputed question of title.

Consequently, we do not find any illegality in the order of the learned Single Bench which may warrant any interference in the

present appeal. The appeal is accordingly dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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