

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.5566 of 2013

In
Civil Writ Jurisdiction Case No. 88 of 2003

=====

Mannu Yadav @ Mannu Mahto Son Of Niro Mahto Resident Of Village-
Bhalsumia, P.S. Sono, District- Jamui

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner, Munger Division, Munger
3. The Additional Collector, Jamui
4. Gangu Rai Son Of Rattu Rai Resident Of Village- Bhalsumia, P.S. Sono,
District- Jamui

.... Opp. Party/s

=====

Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Sinha, Adv.
For the Opp. Party No. 1 to 3 : Mr. Vijay Kr. Singh No.1, AC to SC-18
For the Opp. Party No. 4 : None.

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 30-11-2016

Re.: M.J.C. No. 5566 of 2013

Heard the learned counsel appearing on behalf of the petitioner and the learned AC to SC-18 appearing on behalf of the opposite party nos. 1 to 3. However, none appears on behalf of the opposite party no.4, despite issuance of notice to him, both by ordinary process as also by registered post with A/D, by order dated 12.2.2014.

The present M.J.C. application has been filed for restoration of C.W.J.C. No. 88 of 2003, which stood dismissed against the opposite party no.4 alone on account of non-compliance of the Court's peremptory order dated 9.9.2013.

After having heard the parties and taking into consideration the averments made in the present M.J.C. application, the prayer for restoration is allowed. C.W.J.C. No. 88 of 2003, as against the opposite party no. 4, is restored to its

original file

The present M.J.C. application stands finally disposed of.

Re.: C.W.J.C. No. 88 of 2003

On the request of the parties, the main writ petition has been taken up for consideration on merits.

The petitioner has filed the present writ petition assailing the validity and correctness of the order dated 11.01.2001 passed in Miscellaneous Case No. 23 of 1998-99 by the respondent Additional Collector, Jamui, as contained in Annexure-1, whereby the aforesaid case filed on behalf of the respondent no.4 has been disposed of with a direction that the Jamabandi No. 37 shall be modified by changing the area indicated therein and for remaining land, Jamabandi shall be allowed to stand in favour of old Jamabandi- holder. The petitioner is also aggrieved by the order dated 19.3.2002 passed in Revenue Mutation Revision Case No. 21 of 2000-2001 by the respondent Divisional Commissioner, Munger, whereby the aforesaid case filed on behalf of the petitioner has been dismissed on the ground that it was not maintainable.

After having heard the parties and taking into consideration the pleadings of the petitioner, this Court is of the opinion that the claims raised on behalf of the petitioner with respect to the lands in question essentially require determination of his claim of his right, title and possession over the lands in question, which can be appropriately decided by a civil court of competent jurisdiction after recording the evidence of the parties.

In above view of the matter, the present writ petition is disposed of with a liberty to the petitioner to approach the civil

court of competent jurisdiction for grant of appropriate relief to him with respect to the lands in question.

If an appropriate civil suit is filed on behalf of the petitioner within a period of three months from today, after impleading all the necessary parties including the respondent no.4 herein, then the same shall be decided on its own merits on the basis of evidence/ materials produced by the parties, but without being prejudiced/influenced by any finding recorded by the revenue authorities in the impugned orders, which is subject matter of challenge in the present proceeding. In such a civil suit, the parties shall be at liberty to raise all the issues of facts and law, which may be available to them with respect to the lands in question.

The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

BTiwary/-

U			
---	--	--	--