

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1608 of 2016

IN

Civil Writ Jurisdiction Case No. 3138 of 1993

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Parwati Devi @ Pashpati Devi w/o Nageshwar Chaudhary R/o village Jalalpur
Gangti, PS and Anchal Mahua, PO and District Vaishali.

.... Petitioner / Appellant

Versus

1. The State of Bihar.
2. The Director Consolidation, Bihar, Patna.
3. Deputy Director Consolidation, Vaishali.
4. Joint Director Consolidation, Muzaffarpur, Vaishali.
5. Consolidation Officer, Vaishali.
6. Rajendra Ram
7. Mahendra Ram
8. Jogendra Ram
All s/o Sarjug Chamar @ Sarjug Ram deceased.
9. Mohakhia
(Expunged and substituted by following heirs vide order dated 04.12.17 passed in
I.A. 7890/17)
9A - Raj Kumar Ram,
9B - Surya Narain Ram
9C - Deep Narain Ram,
9D - Birju Ram
All sons of Late Mohakhia (R-9)
9E - Renuka Devi, D/o Late Mahakhia (R-9),
All are R/o Village Bishunpur, P.S. Bhagwanpur, Distt. Vaishali,
10. Sahokhia
11. Shanty All d/o late Sarjug Chamar @ Sarjug Ram deceased.
12. Name not known widow of Sarjug Ram (Deleted vide order dt. 04.12.17)
All are R/o village Jalalpur Gangti, PS and Anchal Mahua, PO and District
Vaishali.

.... Respondents / Respondents.

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Appearance:

For the Appellant/s : Mr. Chandra Kant and
Mr. Navin Kumar, Advocates.
For the Respondent/s : Mr. Rohitabh Das and
Ms. Shilpi Keshri, AC to AAG 10.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 08-12-2017



Heard learned counsel for the appellant as well as learned counsel representing the State.

2. The appellant, who happened to be the original writ petitioner, is aggrieved by the judgment dated 24.04.2015 passed by a learned single Judge of this Court in CWJC No. 3138 of 1993 by which the learned single Judge has been pleased to affirm the order passed by the revisional authority, the Joint Director, Consolidation, Muzaffarpur in Revision Case No. 2099 of 1989. The revisional authority had set aside the orders passed by the Deputy Director, Consolidation, Vaishali and the Deputy Collector Land Reforms, Vaishali.

3. The case of the present appellant is that she purchased the land in question from a vendor, who derived his right, title and interest from one Raudi Mahra. The descriptions of various sale deeds have been given to show that the first sale deed in respect of the land in question was executed by Raudi Mahra, who had got the land in question, measuring area 42 decimals, from the ex-landlord through a settlement. It is the case of the appellant that in the Revisional Hal Survey the name of the said Raudi Mahra was entered and, therefore, his title to the land in question cannot be questioned.

4. Referring to the orders passed by the consolidation authorities in favour of the appellant upto the appellate stage, learned



counsel would submit that the revisional authority has failed to appreciate that even though the land in question is entered in the old Khatiyan in the name of one Naku Chamar, the said Naku Chamar had failed to pay rent of the land in question and thereupon the ex-landlord had taken over the land and had settled the same with Raudi Mahra. She has assailed the order passed by the learned single Judge upholding the order of the revisional authority.

5. On the other hand, learned counsel representing the State submits that the story as made out on behalf of the appellant that the land in question was taken over by the ex-landlord and the same was settled with Raudi Mahra has not been believed by the revisional authority as well as the learned single Judge for the reasons that if the Khatiyani raiyat Naku Chamar was in arrears of rent and the landlord is said to have taken over the land in question from him, then the entire land measuring 78 decimals could have been taken over; further from the records it is not evident that any return was filed by the ex-Jamindar though it is being claimed by the appellant that the same was filed. Had the return been filed in the name of Raudi Mahra, a Jamabandi would have been created in his name but the same is not here the case of the appellant. The case of the private respondent had been that when the legal heirs and descendents of Naku Chamar are very much available and even in course of spot verification the grand-



son Saryug Ram of the said Naku Chamar had been found in possession of the land of the said Khata which are surrounding the land in question, it is evident that the Khata opened in the name of said Naku Chamar was never disturbed.

6. We have considered the submissions made at the bar and have perused the records.

7. We have reasons to agree with the findings recorded by the revisional authority and the learned single Judge. At the first instance, we find that the grand-son of Naku Chamar is found in possession of the land under the Khata in question. Even in course of spot verification, the Consolidation Officer has found the same; from and amongst the said piece of land which measures an area 78 decimals, the present appellant is claiming her right, title and interest as also possession over 42 decimals of land which, according to her, has been wrongly shown as 30 decimals in the map. She has claimed it through Raudi Mahra, who does not belong to the family of Naku Chamar.

8. We have made a specific query from the learned counsel representing the appellant as to who was said Raudi Mahra, the answer is that he is an alien to the family. If this is so coupled with the fact that no Jamabandi was created in his name after abolition of Zamindari, on the fine night of visiting only because subsequently the



purchaser from him got their names entered in Register II would not create a title as it is well settled that the revenue receipt is issued by the revenue authorities by virtue of the entries made in Register II and which at best indicates the hands which have paid rents in respect of the land and nothing more.

9. We do not find any illegality or infirmity with the impugned judgment.

10. Appeal has no merit. It is accordingly dismissed.

11. Before parting with the judgment we make it clear that the parties to the proceeding may settle their issues before the Civil Court of competent jurisdiction, if so advised.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Dilip, AR

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