

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20430 of 2013

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1. Yado Lal Mahto Son Of Vishwanath Mahto Resident Of Village- Dukhi
Chhapar, P.S. Gopalpur, District West Champaran

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Collector, West Champaran, Bettiah
3. The Additional Collector, West Champaran Bettiah
4. The Deputy Collector Land Reforms, West Champaran Bettiah
5. The Sub-Divisional Officer, Narkatiyaganj, West Champaran Bettiah
6. The Circle Officer, Sikta, West Champaran Bettiah
7. Dhanilal Sah Son Of Late Haribansh Sah Resident Of Village- Dukhi
Chhapar, P.S. Gopalpur, District West Champaran

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Surendra Kishore Thakur

For the Respondent/s : Mr. Rajesh Kumar

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH
ORAL ORDER

3 14-07-2017

Heard Mr.Surendra Kishore Thakur, learned counsel

for the petitioner and learned AC to GP-22 appearing on behalf of
the respondent-State.

The present writ application has been filed with a
prayer for quashing the proceeding of Encroachment Case No.1 of
2013-14 pending in the court of respondent no.6, the Circle
Officer, Sikta, since, the settlement made in favour of private
respondent no.7 is under challenge in Settlement Appeal No.383
of 2013-14 before the Additional Collector, West Champaran,
Bettiah. The alternative prayer has been made to stay the
proceeding of Encroachment Case No.1 of 2013-14 till the
disposal of the Settlement Appeal No.383 of 2013-14 pending in



the court of Additional Collector, West Champaran, Bettiah. Land in dispute is appertaining to khata no.9, Khesra no.1132/1, measuring an area of 0.03 Acre situated in village Shargatia, Circle Sikta, District West Champaran.

Plot no.1132 under Khata no.9 is recorded in revenue record as State of Bihar Gair Mazarua Malik, but prior to vesting of Jamindari, the land in question was in possession of Gopi Pandit who had amalgamated public land being plot no.1132 with his raiyatee land appertaining to plot nos.1131, 1136 and 1137. The petitioner purchased the land appertaining to plot nos.1131, 1136 and 1137 from Gopi Pandit through registered sale deed in the year 1990. The respondent no.7 made an application in the year 2000-01 before the Circle Officer, Sikta, the respondent no.6, for settlement of the land claiming himself to be a landless person. Plot No.1132 was settled in favour of the respondent no.7 vide Settlement Case No.70 of 2000-01. The petitioner came to know about such settlement in the year 2013, upon which he filed Land Settlement Appeal No.383 of 2013-14 which has been admitted vide order dated 22.06.2013 passed by learned Additional Collector, West Champaran, Bettiah. In order to frustrate the Settlement Appeal of the petitioner, Encroachment Case No.1 of 2013-14 was initiated. Subsequently, the Magistrate was deputed for removing the encroachment vide letter dated



02.07.2013 issued by Circle Officer, Sikta, but the same was stayed by the Sub-Divisional Officer vide letter dated 22.07.2013, as contained in Annexure-9. Hence, it is submitted by learned counsel for the petitioner that the interest of petitioner would be jeopardized, if he has to vacate the land in question.

Learned counsel for the State submits that the land in question was settled with respondent no.7 vide Land Settlement Case No.70 of 2000-01. The said settlement has been questioned by the petitioner by filing Land Settlement Appeal No.383 of 2013-14 after 12 years in 2013-14. The Encroachment Case No.1 of 2013-14 was initiated wherein petitioner and affected persons were noticed, but the petitioner chose not to submit any document in defence, as a result the petitioner was directed to remove the encroachment.

From the material on record this is not in dispute that the land pertaining to plot no.1132 is a public land, but the petitioner is claiming his right over the same only because it is situated adjacent to his raiyati land.

Since this Court does not intend to pass any order which shall affect the right of the respondent no.7, hence notice is not being issued to respondent no.7.

Considering the rival submissions of the parties, in view of the basic prayer in the writ application for quashing the



encroachment proceeding or for staying the same till the disposal of Settlement Appeal, this Court cannot venture to decide the issue of settlement, title or possession of the parties over the land in question. Neither from the writ application nor from the counter affidavit it appears whether the Encroachment Case No.1 of 2013-14 has already been concluded or whether a final order has been passed? In case the encroachment proceeding has not been concluded till date, it is expected from the respondent no.6 to conclude the same within a period of two months from the date of receipt/production of a copy of this order after giving due opportunity of hearing to all affected persons.

As a result, this writ application is disposed of with the above observations and directions.

It is made clear that any observation made in the order will not be taken into consideration in any proceeding, so far as, the right of respective parties over the land in question is concerned.

Arvind/-

(Dinesh Kumar Singh, J)

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