

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5516 of 2009

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Ganesh Yadav

.... Petitioner/s

Versus

1. The State of Bihar
2. Ram Narain Yadav
3. The Collector, Purnea
4. The Circle Officer, Banmankhi, Purnea

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Sinha

For the Respondent/s : Mr. Mr. Arun Prasad Ambastha

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

6 28-11-2017

Heard both sides.

The petitioner has filed this writ petition for following reliefs:-

“(i) For quashing the order dated 27.05.2008 (Annexure-5) passed by the Collector, Purnea in Revenue revision case No. 26 of 2005 whereby and where under he affirmed the order dated 31.12.2004 (Annexure-4 & 4/1) passed by the Circle Officer, Banmankhi, Purnea in Misc. Basgit case No. 8/2004-05 whereby and where under he cancelled Basgit Parcha of an area of 0.03 ½ decimal out of 0.05 decimal land granted to the petitioner vide Basgit Case No. 11/1994-95 and issued amended Basgit Parcha of an area measuring 0.01.1/2 decimal of land out of the said 0.05 decimal land earlier granted to the petitioner.

(ii) For a direction to the respondent concerned to restore the 0.05 decimal of land to the petitioner which was granted vide Basgit case No. 11/1994-95 and subsequently affirmed by the Collector, Purnea in revision No. 107 of 1998 filed by respondent No.2.”

The learned counsel for the petitioner assailed the order of Circle Officer as well as the Collector on the ground that



earlier the Circle Officer has issued Parcha under the Bihar Privileged Persons Homestead Tenancy Act, 1947 (hereinafter referred to as the B.T. Act) with regard to 5 decimals of land of Khata No. 123 Khesra No. 894 vide order dated 10.06.1994 but the respondent No.2 filed revision case No. 107 of 1998 after four years and the Collector, Purnea, although dismissed the revision petition, but remitted the case to the Circle Officer with a direction that Circle Officer shall hear both sides and, after measurement of the land, shall pass order but the Circle Officer did not hear the petitioner and found that petitioner is only in possession of 1 ½ decimals of land on which the house of petitioner is situated and, without giving proper notice, Parcha issued in favour of the petitioner with regard to 5 decimals of land, is modified and reduced to only 1 ½ decimals of land. The Collector also did not look into the illegality and dismissed the petition.

The learned counsel for the respondent No.2 submits that respondent No.2 himself is *Sikmi Bataidar* of land of Khata No. 123, Khesra No. 894. The aforesaid land was recorded in the name of Singeshwar Yadav, grand father of respondent No. 2. Singeshwar Yadav got two sons, namely, Rameshwar Yadav and Maheshwari Yadav. Rameshwar Yadav by inheritance got 10 decimals of land of Khata No. 123, Khesra No. 894. Rameshwar Yadav got two sons Bindeshwari Yadav and Ram Narain Yadav, respondent No.2. The petitioner is not entitled to get Parcha under the B.T. Act and he did not raise any objection against the order of Circle Officer. The house of petitioner is standing on the same land measuring 1 ½ decimals. House of respondent No.2 is also standing there. The Circle Officer after getting the land measured rightly modified the Parcha and issued modified Basgit Parcha for



only 1 ½ decimals of land in favour of the petitioner.

Having considered the submissions of both sides and on perusal of records, I find no reason to interfere in the order as from perusal of the records, it appears that land of Khata No. 123, Khesra No. 894, area 20 decimals was recorded in the name of Singeshwar Yadav as Sikmi Dakhalkar. Sikmi Dakhalkar itself is a marginal farmer. The respondent No.2 holds only 5 decimals of land and the nature of land is homestead, as it appears from Khatiyan (Annexure-1), and on the same land house of respondent No.2 is also standing. The Circle Officer rightly modified the Parcha issued in favour of the petitioner only to 1 ½ decimals because the house of petitioner is standing on that area. On the remaining area the house of the respondent No.2 is standing and therefore the Basgit Parcha cannot be given to the petitioner for the entire land including the land on which the house of respondent No.2 is standing.

Accordingly, I do not find any merit in this writ petition and the same is dismissed.

(Prabhat Kumar Jha, J)

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