

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17757 of 2014

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1. Rajesh Kumar Son of Late Bihari Lal Gupta resident of Mohalla - Miscott, Police Station - Motihari, District - East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary.
2. The Commissioner, Tirhut Division, Muzaaffarpur.
3. The District Magistrate, Motihari, East Champaran.
4. The Additional Collector, Motihari, East Champaran.
5. The Sub divisional Officer, Sadar Motihari, East Champaran.
6. The Deputy Collector, Lands Reforms, Sadar Motihari, East Champaran.
7. The Circle Officer, Sadar Motihari.
8. The Officer In-Charge, Town Thana, Motihari.
9. Meera Devi Wife of Krishna Kumar resident of Motihari Bajaj Patti, Pradhan Path, P.S. - Motihari Town, District - East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s Bindhyachal Singh & Manish Prakash
For the State : Mr. Ranjan Kr. Singh, AC to PAAG 2
For the respondent No.9 : Mr. J. S. Arora, Sr. advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 11-12-2017

Heard Sri Bindhyachal Singh, the learned counsel for the petitioner, Sri J. S. Arora, the learned senior counsel for respondent No.9 and the learned counsel for the State.

The petitioner has filed this petition against the order dated 19.06.2014, as contained in memo no. 848 dated 20.06.2014, Annexure-4 to the writ petition.

The learned counsel for the petitioner submits that one Meera Devi filed a petition before the DCLR for demarcation of her land. The DCLR directed the Circle Officer and Amin to demarcate the land of



Meera Devi and the DCLR by order dated 31.03.2014 (Annexure-2 series) closed the records. The petitioner thereafter filed a petition that he purchased a piece of land from Arun Mukherjee, owner of the land, but for that Title Suit No. 193 of 2012 is pending between Arun Mukherjee and his brother Chitranjan Mukherjee. Partition Suit No. 41/1953 is also pending between Arun Mukherjee and Chitranjan Mukherjee and the suit is pending for preparation of final decree. The DCLR on such directed the Circle Officer not to take any action in pursuance of the order dated 31.03.2014 on the petition filed by Meera Devi in Demarcation case No. 3/13-14 (Annexure-3). Meera Devi again filed a petition that the order dated 10.04.2014 is passed on misrepresentation of facts and on such the DCLR again vide his order dated 19.06.2014 (Annexure-4) directed the Circle Officer and other officials to restrain any outsider from taking possession of the land of Meera Devi after superseding the order dated 10.04.2014. The petitioner has filed this petition against the aforesaid order.

It is further submitted that the DCLR has got no power to review his own order, in view of Section 4 of the Bihar Land Dispute Resolution Act, 2009. The DCLR has got power to demarcate any land but under sub-clause 2 of Section 4 of the aforesaid Act the DCLR has got no authority to review or reopen any finally concluded and adjudicated proceeding under any of the acts contained in schedule 1 of the Act and the order dated 19.06.2014 as contained in memo No. 848 dated 20.06.2014 (Annexure-4) is without jurisdiction.

On the other hand, Sri J. S. Arora, the learned senior counsel



for the respondent No.9 submits that admittedly Chitranjan Mukherjee and Arun Mukherjee are two brothers. One partition suit No. 41 of 1953 was filed and with consent of both sides Chitranjan Mukherjee got ¼th share in the suit land situated at Motihari, East Champaran and his brother Arun Mukherjee got ¼th share in the suit land situated at Muzaffarpur but due to inadvertence some typographical error crept in the preliminary decree showing that Arun Mukherjee also got share in the land situated at Motihari but the same has already been rectified and confirmed by the High Court. It is further submitted that Chitranjan Mukherjee sold eight katha of land in favour of Meera Devi, respondent No.9, and thereafter Meera Devi filed petition for demarcation of the land. The order for demarcation was made and the records were disposed of vide order dated 31.03.2014 but thereafter petitioner filed petition that demarcation was illegally done. The petitioner also purchased 1 ½ katha land of the same plot. On such, petition having been filed by the petitioner, the DCLR passed the order dated 10.04.2014 (Annexure-3) in the same case, i.e. Demarcation case No. 3/13-14 and directed the Circle Officer not to take any step in pursuance of the order dated 31.03.2014. Respondent No.9 again filed petition in the same case on which the DCLR passed the order dated 19.06.2014 (Annexure-4) directing the authorities to give possession to Meera Devi after superseding the order dated 10.04.2014. The learned senior counsel for respondent No.9, however, very fairly submitted that once Demarcation case No. 3/13-14 is disposed of the DCLR has got no jurisdiction under Section 4 of the Bihar Land Disputes Resolution Act, 2009 to review or recall his own order and,



therefore, the order 10.04.2014 (Annexure-3) and the order dated 19.06.2014 (Annexure-4) are without jurisdiction.

Having considered the facts and submission of the parties, I find that the DCLR, after having received the petition filed by Meera Devi, respondent No.9, got her land demarcated and Demarcation case No. 3/13-14 was closed. No order was passed with regard to delivery of possession to any party or to Meera Devi, and once final order was passed the DCLR became functus officio and in that event the DCLR should not have passed the order dated 10.04.2014, on receipt of petition of the petitioner, although no direction was give to any party vide order dated 10.04.2014 but the order dated 10.04.2014 is also without jurisdiction. Similarly, the order dated 19.06.2014 is passed by the DCLR reviewing his own order dated 10.04.2014 on this ground alone that DCLR has got no jurisdiction to review his own order both the orders are illegal. Accordingly, the order dated 10.04.2014 (Annexure-3) and the order dated 19.06.2014 (Annexure-4) are set aside.

This writ petition is, accordingly, allowed.

(Prabhat Kumar Jha, J)

BKS/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	22.12.2017
Transmission Date	N.A.

