

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1254 of 2013
IN
Civil Writ Jurisdiction Case No. 7242 of 2007**

- =====
1. Sheo Shankar Singh @ Shankar Singh Son Of Late Nagina Singh Resident Of Village - Butaai Bigha, Police Station - Akorhigola, District - Rohtas At Sasaram
 2. Lallan Singh Son Of Late Nagina Singh Resident Of Village - Butaai Bigha, Police Station - Akorhigola, District - Rohtas At Sasaram
 3. Baban Singh Son Of Late Nagina Singh Resident Of Village - Butaai Bigha, Police Station - Akorhigola, District - Rohtas At Sasaram
 4. Gauri Singh Son Of Late Nagina Singh Resident Of Village - Butaai Bigha, Police Station - Akorhigola, District - Rohtas At Sasaram

.... Appellant/s

Versus

1. The State Of Bihar
2. The Collector, Rohtas At Sasaram
3. The Sub Divisional Officer, Dehari - On - Sone, Under District - Rohtas
4. The Deputy Collector Lande Reforms Dehari, Under District - Rohtas
5. The Circle Officer, Akorigola, P.S. Akorhigola, District - Rohtas
6. The Circle Inspector, Akorhigola, District - Rohtas
7. The Revenue Karmchari, Akorhigola, P.S. Akorhigola, District - Rohtas
8. Bhikar Ram Son Of Shyam Bihari Ram Resident Of Village - Nawadih, P.O. Gamhariya, Police Station - Akorhigola, District - Rohtas At Sasaram
9. Dharamraj Ram Son Of Bashishth Ram Resident Of Village - Nawadih, P.O. Gamhariya, Police Station - Akorhigola, District - Rohtas At Sasaram

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Ramchandra Singh,
Mr. Mahendra Prasad
Mr. Jitendra Kumar Singh
Mr. Shankar Kumar, Advocates

For the Respondent/s : None

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 02-08-2017

Mr. Ramchandra Singh appears for the appellant. None
appears for the respondents even though notice served and represented



by counsel.

Seeking exception to an order dated 15.7.2013 of the Writ Court passed in CWJC No. 7242 of 2007 this appeal has been filed under Clause 10 of the Letters Patent.

The writ petition in question was filed by the private respondents herein, namely, Bikram Ram and Dharamraj Ram and it was their case in the writ petition that the appellants herein, who were respondent Nos. 8 to 11 in the writ petition be restrained from interfering with the right of the writ-petitioners for use of the land in question which has been settled in their favour by the competent authority of the State Government. It was the case of the writ petitioners in the original writ petition that the Sub Judge, Rohtas at Sasaram in Title Suit No. 266 of 2003 decided on 25th of November, 2009 has dismissed the suit filed by the appellants herein and their claim based on adverse possession to the land in question has been rejected and the finding recorded is that it is the Government land and it is stated that now the land has been settled in favour of the writ petitioners in the original writ petition. The appellants herein be restrained from interfering with their possession over the land in question.

The matter was pending before the Appellate Court and it is admitted position that when the matter was pending before the



Writ Court, Title Appeal No. 4/2010 was pending before the 3rd Additional Sessions Judge, Rohtas at the instance of the appellants herein wherein they have challenged the judgment and decree passed in Title Suit No. 266 of 2003 decided on 25th of November, 2009. When the matter was taken up by the learned Writ Court and impugned order was passed on 15.7.2013 the Writ Court was of the opinion that now in the light of the established position as is evident from the judgment of the Sub Judge, Rohtas rendered in Title Suit No. 266/2003, the respondents in the writ petition and the appellants herein had no right and in fact, disposed of the matter in the following manner:-

“This Court does not have to record anything further beyond what the learned Sub Judge I has done in his judgment, which has been brought on record by the private respondents no. 8 to 11 themselves in their counter affidavit. It was their suit for declaration in their favour, which has been dismissed by the Sub Judge after recording clear findings based on the oral as well as so-called documentary evidence produced by the plaintiffs. If that be so, then obviously the private respondents are in thick of soup now and they will have to pursue their Title Appeal No. 4 of 2010 and beget some kind of order if they want to remain in possession of the land in question.

The Navodaya Vidyalaya has already come up and is functional. If the private respondents want to take law in



their hands, this Court directs local district authorities to deal with them suitably. Pendency of their Title Appeal does not matter so long as the declaration made by the Sub Judge is not upturned or stayed.

Writ application stands disposed of with the observation as above.”

Today when the matter is taken up for hearing we find from the supplementary affidavit filed by the appellants herein that Title Appeal No. 4 of 2010 has been decided vide Annexure-8 to the supplementary affidavit vide judgment dated 27th of March, 2015 and the suit has been decreed in favour of the appellants and it has been declared that the plaintiffs in the appeal before the appellate Court, namely, the appellants herein have got right, title, interest and possession over the suit land detailed in Annexure-8 to the application and the defendants, namely, the original writ petitioners have no concern with the suit land.

Now in view of the judgment and decree passed by the appellate Court on 27.3.2015 as is evident from Annexure-8, namely, the judgment in Title Appeal No. 4 of 2010, this appeal has to be allowed. The order passed by the Writ Court be declared as non-effective and the appellants are granted liberty to get the right which accrues to them by virtue of the judgment passed in Title Appeal No. 4 of 2010, executed in accordance with law subject to any order



passed by higher Court on the same.

In view of the judgment rendered in the Title Appeal No. 4 of 2010 the writ petition filed by the writ petitioners stands dismissed.

With the aforesaid, the appeal stands allowed and disposed of.

(Rajendra Menon, CJ)

S.Pandey/-

(Anil Kumar Upadhyay, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.08.2017
Transmission Date	

