

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1372 of 2015

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Nityanand Prasad Singh son of Late Shivnandan Prasad Singh, resident of Village- Sikrahulla, P.S. Birpur (Barauni), P.O. Korla Haibatpur, District Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
 2. The Additional Collector, Begusarai.
 3. The Deputy Collector, Land Reforms, Begusarai.
 4. The Anchal Adhikari, Barauni Anchal, Barauni, District Begusarai.
 5. Bhattu Mahton, son of Dhanik Mahto.
 6. Jagdish Mahton, son of Late Mahto
 7. Baidyanath Mahto @ Nago Mahto, son of Bhaglu Mahto.
 8. Brahmdeo Mahton, son of Lalo Mahton.
 9. Ramo Mahton, son of Lalo Mahton
 10. Sita Ram Mahton son of Lalo Mahton
 11. Sukhdeo Mahton, son of Dhanik Mahto
 12. Khyali Mahto, son of Lalo Mahto.
 13. Chandradeo Mahto, son of Lalo Mahton,
- Respondent nos. 5 to 13 are residents of Village- Sikrahulla, Naya Tola, Ram Nagar P.S. Birpur (Barauni), P.O. Korla Haibatpur, District Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kaushal Kumar Singh, Adv.
Mr. Niraj Kumar, Adv.

For the Respondent Nos. 1 to 4 : Mr. P.K. Singh, AC to SC-8

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 09-01-2017 Heard the learned counsel appearing on behalf of the petitioner and the learned AC to SC-8, appearing on behalf of the respondent nos. 1 to 4.

The petitioner is aggrieved by the order dated 16.1.2013 passed in Miscellaneous Appeal Case No. 73 of 2009-10 by the respondent Additional Collector, Begusarai, as contained in Annexure-13 to the writ petition, whereby the aforesaid appeal filed on behalf of the petitioner has been dismissed and the orders passed by the Circle Officer, Barauni as also the D.C.L.R.,



Begusarai, as contained in Annexure-6 and 7 respectively have been affirmed. However, liberty has been granted to the petitioner to approach the civil court of competent jurisdiction.

The learned counsel appearing on behalf of the petitioner has argued the matter at length and has submitted that the petitioner is the settlee of the lands in question by the Ex-landlord. He further submitted that the private respondent nos. 5 to 13 are not the descendants of the recorded tenant namely Koha Koiri. Therefore, the Jamabandi in their favour could not have been created.

The learned AC to SC-8, appearing on behalf of the respondent nos. 1 to 4, has opposed the prayer and has supported the impugned order.

After having heard the parties at some length, this Court is of the opinion that as to whether the alleged settlement made in favour of the petitioner is valid or not, and as to whether the private respondents are descendants of the recorded tenant-Koha Koiri or not can be effectively decided only after recording the evidence of the parties and not otherwise. Admittedly, the claims raised on behalf of the petitioner with respect to the lands in question have been rejected by all the three authorities.

At this stage, the learned counsel appearing on behalf of the petitioner seeks permission to withdraw the present writ petition with a liberty to approach the civil court of competent jurisdiction for grant of appropriate relief to the petitioner with respect to the lands in question.

Permission is accorded.

The writ petition stands disposed of as withdrawn with the liberty aforesaid.



If an appropriate civil suit is brought by the petitioner within a period of three months from today, after impleading all the necessary parties including the private respondent nos. 5 to 13, for grant of appropriate relief to him with respect to the lands in question claimed by him, then the same shall be decided on its own merits on the basis of the evidence/ materials produced by the parties, but without being prejudiced by the findings recorded by the revenue authorities in the impugned orders, which are subject matter of challenge in the present writ petition.

It is further clarified that the parties shall be at liberty to raise all the issues of facts and law, which may be available to them, with respect to the lands in question.

(Birendra Prasad Verma, J)

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