

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No. 839 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 6816 of 1991

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1. Narvdeswar Nath Tiwary son of Late Suryabhan Tiwari
2. Mostt. Girija Devi wife of Late Suryabhan Tiwari
Both residents of village Tiwari Chakiya, P.O.- Husepur, P.S.- Bhore, District-
Gopalganj
3. Rabindra Chaudhary
4. Rajendra Chaudhary
5. Raja Chaudhary
All are sons of Late Nathuni Chaudhari
6. Smt. Ghurali Devi, daughter of Late Premi Chaudhari,
Respondent Nos. 3 to 6 are residents of village Muradih, P.O.- Hussepur, P.S.-
Bhore, Distt.- Gopalganj

.... Petitioners - Appellants

Versus

1. The State of Bihar
2. The Commissioner, Saran Division, Chapra
3. The Additional Collector, Gopalganj
4. The Deputy Collector, Land Reforms Department, District- Gopalganj
5. The Anchal Adhikari, Bhore, P.O. and P.S.- Bhore, District- Gopalganj
6. Bhrigurashan Chaudhari, son of Tapi Chaudhary, deceased, resident of village-
Bantariadhu, P.O. & P.S. Bhore, District- Gopalganj
**(Since deceased respondent no. 6 has been substituted by the following heirs
and legal representatives vide the Court's order dated 24.11.2016 passed in
I.A. No. 8583 of 2015)**

6(A) Jyotsna Devi, wife of Late Bhrigurashan Choudhari,
6(B) Munna Yadav
6(C) Raj Kumar Yadav
6(D) Santosh Yadav
6(E) Jitendra Yadav,

All sons of Late Bhrigurashan Choudhari,

6(F) Satyendra
6(G) Anand Yadav
6(H) Devanand Yadav

All minor sons of Late Bhrigurashan Choudhari, under the guardianship of their
mother Jyotsna Devi,

All residents of Village – Bantariadhu, P.O. & P.S. Bhore, District Gopalganj.

.... Respondents – Respondents.

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Appearance:

For the Appellant/s : Mr. Sourendra Pandey, Advocate.

For the Respondents-State: Mr. AC to AAG 4.



For the Private Respondents: Mr. Ajay Kumar Sharma, Advocate.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 25-07-2017

Heard counsel for the appellants, counsel for the State and counsel for the private respondent.

Perused the order dated 26.07.2013 passed by the learned Single Judge, who has refused to interfere with the order of the Divisional Commissioner, Saran passed in Misc. Revision No. 111/1987-88, and agreeing with the Divisional Commissioner's observation that the nature of dispute being such, the only remedy available to the appellants would be to file a Civil Suit for declaration, may be possession, because on a re-reading of the order of the Divisional Commissioner, we are also convinced that the learned Single Judge has not committed any error since there is no clinching evidence based on which the Court can declare in favour of the appellants with regard to right, title and interest, which they are claiming on the basis of some kind of observation made in a consolidation proceeding whereas the record of rights maintained for a very very long time speaks otherwise.

Appeal has no merit. It is dismissed.



However, the liberty granted by the Divisional Commissioner and the learned Single Judge remains.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
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