

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.3 of 2016

=====

Bala Paswan Son of Late Pochai Paswan resident of Village and P.O. Bhagwatipur Amghatta (Amghatta), P.S. Sitamarhi, Sub-Division Sitamarhi Sadar, District - Sitamarhi.

.... Petitioner/s

Versus

1. Bhikhari Paswan
2. Sukhari Paswan both sons of Late Pachu Paswan resident of Village and P.O. Bhagwatipur Amghatta (Amghatta), P.S. Sitamarhi, Anchal Dumra Sub-Division Sitamarhi Sadar, District - Sitamarhi.
3. Government of Bihar, through Collector, Sitamarhi.
4. Circle Officer, Dumra, Sub-division, Sitamarhi Sadar, District - Sitamarhi.
5. Ram Shresth Khirhar
6. Ram Jinish Khirhar both sons of Late Brahmdev Khirhar Resident of Village & P.O. Bhagwatipur, Amghatta (Amghatta), P.S. Sitamarhi, Anchal Dumra, Sub-division, Sitamarhi, District - Sitamarhi.
7. Basistha Kharihar
8. Jayram Khirhar sons of Late Ram Briksha Khirhar Residents of village & P.O. Bhagwatipur, Amghatta (Amghatta), P.S. Sitamarhi, Anchal Dumra, Sub-Division Sitamarhi, District - Sitamarhi.
9. Sahindra Paswan son of Late Gyan Chandra Paswan
10. Naresh Paswan son of Sahindra Paswan Resident of Village & P.O. Khairwa, P.S. Majorganj, Subdivision Sitamarhi Sadar, District - Sitamarhi.
11. Most. Pavitri Devi wife of Late Husani Paswan
12. Dinesh Paswan
13. Vinod Paswan
14. Shiv Kumar Paswan sons of Late Husani Paswan Residents of village & P.O. Bhagwatipur, Amghatta (Amghatta), P.S. Sitamarhi, Anchal Dumra, Sub-Division Sitamarhi, District - Sitamarhi.
15. Krishna Devi D/o Late Husani Paswan resident of Village Minapur Balhar, P.S. Piprahi, Sub-division Shivhar, District - Sheohar.
16. Most Sakhiya Devi wife of Late Jaikaran Paswan
17. Prakash Chandra Paswan son of Late Jaikaran Paswan



18. Parwati Devi wife of Late Sitaram Paswan

19. Rajesh Paswan

20. Ramesh Paswan sons of Late Sitaram Paswan

21. Indradeo Paswan son of Late Chaitu Paswan All resident of village Bhagwatipur, Amghatta (Amghatta), P.S. Sitamarhi, Sub-Division Sitamarhi Sadar, District - Sitamarhi.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Jitendra Kishore Verma, Adv.

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 08-03-2017

Heard Mr. J.K. Verma, learned counsel for the petitioner.

By the impugned order, the learned court below has rejected the prayer of the defendant no. 20 in the suit for rejection of the plaint.

After considering the submissions and perusal of the materials on record including the impugned order, it transpires that no relief against the defendant no. 20 has been prayed in the suit which has been filed mainly for declaration of title and confirmation of possession and also for declaration regarding wrong entry in the record of rights.

Learned counsel for the petitioner has fairly accepted that the defendant no. 20 is the person at whose instance the proceeding for removal of encroachment under the Bihar Public Land



Encroachment Act was initiated over the suit property claiming it to be Rasta.

The rejection of the plaint has been sought for on two grounds firstly that the suit is barred under section 16 of the Bihar Public Land Encroachment and secondly that it is barred by limitation with regard to the relief against the survey entry.

Learned court below after considering the facts and circumstances of the case has rejected the prayer as made by the defendant no. 20-petitioner firstly coming to the conclusion that there is no challenge to any order passed in the suit under the Bihar Public Land Encroachment Act and as such the provision barring the jurisdiction of the civil court will not be attracted and secondly that the wrong entry in the revisional survey records and the date of publication of the said survey khatian would not be the starting point of limitation for a suit for declaration of title and possession.

During the course of submission, learned counsel for the petitioner has placed paragraph -5 of the plaint in order to impress this Court that the plaintiffs had the knowledge of the survey entry and therefore the bar of limitation is inevitable. This Court is not persuaded to align with the submission in the facts and circumstances of the case. This Court, therefore, comes to the conclusion that the learned court below has not committed error of jurisdiction or



material irregularity in passing the impugned order turning down the prayer for rejection of the plaint.

Accordingly, this revision application sans merit is dismissed.

However, it is observed that the dismissal of the prayer for rejection of the plaint will not prejudice the case of the other party in accordance with law at the appropriate stage of the suit.

(V. Nath, J)

Devendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	02.05.2017
Transmission Date	

