

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12886 of 2013

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Shyam Chandra Sahani Son Of Late Sherkhi Sahani Resident Of Village -
Rasulpur Sayeed Salem, Police Station - Ahiyapur, District - Muzaffarpur

.... Petitioner/s

Versus

1. The State Of Bihar, Through Chief Secretary, Government Of Bihar, Patna
2. The Collector, Muzaffarpur
3. The Sub - Divisional Officer, East Muzaffarpur
4. The Officer - In - Charge, Ahiyaur Police Station, Muzaffarpur
5. Uma Rai Son Of Ram Chandra Rai @ Asharfi Rai Resident Of Village -
Rasulpur Sayeed Salem, Police Station - Ahiyapur, District - Muzaffarpur
6. Ram Chandra Rai Son Of Not Known Resident Of Village - Rasulpur Sayeed
Salem, Police Station - Ahiyapur, District - Muzaffarpur
7. Bilash Rai Son Of Jugeshwar Rai Resident Of Village - Rasulpur Sayeed
Salem, Police Station - Ahiyapur, District - Muzaffarpur
8. Raj Kumar Rai Son Of Jugeshwar Rai Resident Of Village - Rasulpur Sayeed
Salem, Police Station - Ahiyapur, District - Muzaffarpur
9. Shankar Rai Son Of Jugeshwar Rai Resident Of Village - Rasulpur Sayeed
Salem, Police Station - Ahiyapur, District - Muzaffarpur
10. Shravan Rai Son Of Jugeshwar Rai Resident Of Village - Rasulpur Sayeed
Salem, Police Station - Ahiyapur, District - Muzaffarpur
11. Hulash Rai Son Of Jugeshwar Rai Resident Of Village - Rasulpur Sayeed
Salem, Police Station - Ahiyapur, District - Muzaffarpur
12. Kailash Rai Son Of Jugeshwar Rai Resident Of Village - Rasulpur Sayeed
Salem, Police Station - Ahiyapur, District - Muzaffarpur
13. Shambhu Rai Son Of Jugeshwar Rai Resident Of Village - Rasulpur Sayeed
Salem, Police Station - Ahiyapur, District - Muzaffarpur
14. Smt. Vaidehi Devi Wife Of Sri Gautam Singh And D/O Kailash Singh
Resident Of Village - Rasulpur Sayeed Salem, Police Station - Ahiyapur,
District - Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 24-04-2017

Heard learned counsel for the petitioner and
learned G.P.-17 for the State.

The present writ application has been filed for a



direction to the respondent authorities to restrain the illegal construction over the land of the petitioner.

It is submitted by learned counsel for the petitioner that Patta was issued in favour of the ancestor of the petitioner for 187 decimals of land of C.S. Khata No. 131, C.S. Plot No. 775, R.S. Khata No. 62, R.S. Plot No. 1462 by the ex-landlord on payment of money on 20.05.1858 and other plots were owned by the ancestor of the petitioner whereas the dispute is with regard to R.S. Khata No. 143, R.S. Plot No. 1614, Area 32 decimals, R.S. Khata No. 279, R.S. Plot No. 1615, Area 41 decimals, R.S. Khata No. 332, R.S. Plot No. 1613, Area 6 decimals and C.S. Khata No. 131, C.S. Plot No. 775, R.S. Khata No. 62, R.S. Plot No. 1462, Area 2 acres situated in village – Bhikhanpura, P.S. Ahiyapur, District – Muzaffarpur, upon which the ancestors of the petitioner have been in continued possession and have been cultivating the land in question after taking patta of the land and the name of the petitioner's ancestor was mutated and accordingly, rent has been paid to the State of Bihar and have got receipt for the same till 04.05.1962. But during revisional survey, since the petitioner was working in Kolkata, while his ancestors were illiterate, the names of the private respondents were recorded and when the petitioner came to know that the private respondents have begun to construct a house on the said land, he filed a petition under



Section 144 Cr.P.C. on 23.03.2013 before the SDM, East Muzaffarpur as contained in Annexure -3 and thereafter, on 03.05.2013 but no action has been taken.

It appears that the dispute is between the petitioner and respondent nos. 5 to 14 over the land in question. Hence, no order under the Bihar Public Land Encroachment Act, 1956 can be passed since the land in question is not a public land. Moreover, as per the own admission of the petitioner in R.S. Khatiyani the names of respondent nos. 5 to 14 have been recorded, such dispute cannot be adjudicated in exercise of jurisdiction under Article 226 of the Constitution of India.

Hence, this writ application is disposed of with liberty to the petitioner to raise his grievances in appropriate proceeding.

(Dinesh Kumar Singh, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.05.2017
Transmission Date	NA

