

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.706 of 2016
IN
Civil Writ Jurisdiction Case No. 8657 of 1998**

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1. Shankar @ Manish Kumar
2. Suraj @ Manoj Kumar
Both Sons of Laxman Pd. Singh Dakshini (Southern) Mandiri, Kathpool, Patna - 1,
P.S. - Budha Colony, District - Patna.

.... Appellant/s

Versus

1. The State of Bihar.
2. Additional Collector Saran at Chapra.
3. Deputy Collector Land Reforms, Saran at Chapra.
4. Janki Singh Son of Late Marai Singh
5. Ashok Singh Son of Late Laxmi Singh
Both are residents of village - Jalalpur, P.O. - Gultenganj, P.S. - Chapra Muffasil,
District - Chapra.

.... Respondent/s

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Appearance:

For the Appellant/s : Mr. Ganipati Trivedi, Sr. Advocate.
For the State : Mr. Shankar Kumar Thakur, AC to GP 27.
For the private respondent: Mr. Narayan Singh, Sr. Advocate and
Mr. Ram Charitra Singh, 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: 21-11-2017

Heard learned Senior Counsel for the appellants, learned
counsel for the State and learned counsel for the private respondents.

2. Since the learned single Judge allowed the Writ
Application of the private respondents, who were petitioners, and set
aside the order of the D.C.L.R. as well as the Additional Collector as
well as the Revisional Commissioner, the present appeal has been



preferred by the respondents no. 4 and 5 before the Writ Court.

3. Main thrust of the argument is that there are concurrent findings given by the D.C.L.R. and the Additional Collector and, in that view of the matter, there was no occasion for the learned single Judge to set aside those orders and hold in favour of the private respondents as well as holding the validity of the correction in the Jamabandi in favour of the private respondents created by the Circle Officer, Saran at Chapra.

4. The facts which have been noted by the learned single Judge are reproduced here-in-below for a ready reference:-

“The facts of the case briefly stated are that the two petitioners herein are the lineal descendants of one Marai Singh who was survived by two sons, namely, Janki Singh i.e. petitioner no.1 and Laxmi Singh, i.e. father of petitioner no.2 and one daughter Parwati Devi who was married to Dr. Jai Gopal Lal. It is the case of the petitioners that Marai Singh deceased while in possession of the ancestral land admeasuring about 17 kathas and after his death his widow Tileshwari Kuwar purchased eight plots of land in between the year 1954 to 1968 admeasuring 1 bigha 10 kathas and 18 dhurs, all of which are situated in Village- Jalalpur in the district of Saran and are adjacent to ancestral holdings of these petitioners. It is further the case of these petitioners that since they were minors hence the lands were purchased by the mother of the petitioner no.1 and the grandmother of petitioner no.2 Tileshwari Kuwar in the name of Jai Gopal Lal, the brother in-law of petitioner no.1 with a view to provide guardianship to the children as well as for protection of the land. It is the case of the petitioners that when they attained majority that they requested to Dr. Jai Gopal Lal to transfer the said eight plots of land which had been purchased by Tileshwari Kuwar in his name, in their favour and on the request so



made Dr. Jai Gopal Lal executed a deed of Ladavi on 26.4.1979. It is the case of the petitioners that since the Ladavi was executed by way of family arrangement and that there was no dispute on the issue hence it was executed on a plain paper, a copy of which is present at Annexure-1 to the writ petition. It is next stated that following the Ladavi executed on 26.4.1979 that the two petitioners approached the Circle Officer, Sadar Anchal, Chapra for correction of the Jamabandi which was running in the name of Dr. Jai Gopal Lal to be corrected in their name and for opening the account in their names with the support of the deed of Ladavi as well as the statement made by the wife of late Dr. Jai Gopal Lal, namely, Parwati Devi who deposed in favour of these petitioners and accepted that the lands in fact belonged to her mother and her brothers and that there was no dispute regarding the deed of Ladavi. A copy of the statement of Parwati Devi is present at Annexure-2. It is the specific case of the petitioners that even after execution of the sale deed in favour of Dr. Jai Gopal Lal although the receipts were being issued in his name but in the column of payee, the names of the petitioners were clearly mentioned. The Circle Officer being satisfied by the documents on record accepted the request and made correction in the jamabandi by incorporating the names of the two petitioners vide order passed on 31.3.1985, a copy of which is placed at Annexure-3. It is the case of the petitioners that the possession of the lands all along remained with the petitioners and after correction of the jamabandi vide order dated 31.3.1985 (Annexure-3) receipts are being issued in the names of the present petitioners. It is contended that the matter rested at such stage and no dispute at any stage was raised either by Parwati Devi or the son of Dr. Jai Govind Lal and Parwati Devi, namely, Laxman Prasad Singh who is the father of the private respondents.”

5. The dispute started when the grand-sons of Dr. Jai Gopal Lal attained majority and they wanted to take advantage of the fact that the sale deed was executed in favour of their grand-father



and, therefore, they wanted to claim and exercise right over the property in question.

6. The honesty of Dr. Jai Gopal Lal is evident from the Ladavinama which was executed by him and the wife, i.e. the sister of the two private respondents standing up to the fact that late Dr. Jai Gopal Lal had executed a Ladavinama in favour of the two private respondents since the mother had acquired property in the name of the son-in-law because the sons were minor and they needed protection.

7. These facts seem to be a natural course of things. The honesty of the son-in-law and the sister of the two brothers, i.e., the private respondents is reflected from the narration of facts and the documents in question. Obviously, since it was an internal family affair, therefore, nobody properly advised the two brothers to go for a registered deed and formalize the whole thing because it may have also entailed expenses and introduction of an outside agency in the said transaction.

8. In view of the same, we are of the view that correction of the records in favour of the private respondents seems to be in order. The Circle Officer for a change has been honest in adjudication on the available materials. If the appellants want to assert their right over the property through their grand-father, they have to go to a Civil Court of competent jurisdiction and seek a declaration.



9. Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Dilip, AR

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