

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1856 of 2015
IN
Civil Writ Jurisdiction Case No. 10134 of 2008

- =====
1. Chhutararu Ravidas @ Shyam Narayan Ravidas
 2. Rajendra Ravidas
 3. Shankar Ravidas
 4. Bhola Ravidas

All are sons of Fahim Ravidas, rsident of Village- Ghorī Pachma, P.S.- Korha,
District- Katihar.

.... Appellants

Versus

1. The State of Bihar
2. The Collector, Katihar, District- Katihar.
3. The Additional Collector, Katihar, District- Katihar.
4. The Deputy Collector, Land Reforms, Katihar, District- Katihar.
5. The Circle Officer, Korha, District- Katihar.

..... Respondent 1 to 5 / Respondent 1st set.

6. Babita Devi, D/o Late Shobha Kant Jha, W/o Late Bijay Jha

7. Nayan Kumar Jha

8. Sonal Kumar Jha

9. Balram Kumar Jha

10. Vishal Kumar Jha Respondent no. 7 to 10 are grand-sons of Late Shobha Kant Jha, S/o Late Bijay Jha

Respondent no. 7 to 10 are grand-sons of Late Shobha Kant Jha, S/o Late Bijay Jha

11. Puja Kumari, grand-daughter of Late Shobha Kant Jha, S/o Late Bijay Jha

Respondent no. 8 to 11 are minor and represented through their natural guardian mother Babita

Respondent no. 6 to 11 are resident of Village- Ghorī Pachma, P.S.- Korha,
District- Katihar.

.... Petitioners - Respondents 2nd set.
with

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Letters Patent Appeal No. 2001 of 2015
IN
Civil Writ Jurisdiction Case No. 10337 of 2008

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1. Chhutararu Ravidas @ Shyam Narayan Ravidas
2. Rajendra Ravidas
3. Shankar Ravidas
4. Bhola Ravidas

All are sons of Fahim Ravidas, Resident of village- Ghorī Pachma, P.s.- Korha,
District- Katihar

.... Respondents / Appellants

Versus

1. The State of Bihar
2. The Collector, Katihar, District- Katihar
3. The Additional Collector, Katihar, District- Katihar
4. The Deputy Collector, Land Reforms, Katihar, District- Katihar
5. The Circle Officer, Korha, District- Katihar

..... Respondent 1 to 5 / Respondent 1st Set.



6. Babita Devi D/o Late Shobha Kant Jha, W/o Late Vijay Jha
7. Nayan Kumar Jha
8. Sonal Kumar Jha
9. Balram Kumar Jha
10. Vishal Kumar Jha

Respondent No. 7 to 10 are grand sons of Late Shobha Kant Jha, S/o Late Vijay Jha
11. Puja Kumari, grand daughter of Late Shobha Kant Jha, S/o Late Vijay Jha
Respondent No. 8 to 11 are minor and represented through their natural guardian mother Babita.

Respondent No. 6 to 11 are resident of village- Ghoripachma, P.s.- Korha, District-Katihar

.... Petitioners / Respondents

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Appearance:

(In LPA No. 1856/2015 & 2001/2015)

For the Appellant/s	:	Mr. Devendra Kumar Sinha, Sr. Advocate Mr. Bhola Prasad and Mr. Mukesh Kumar Jha, Advocates.
For the State	:	Dr. Mankeshwar Tiwari, AC to AAG 3.

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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: 06-09-2017

Since a common order was passed in both the Writ Applications and Appeals have been preferred against the said common order, both the Appeals were heard together and are being disposed of by this common order.

2. Heard learned Senior Counsel for the appellants and learned counsel for the State.

3. The order under challenge is dated 20.07.2015 passed by the learned Single Judge, who allowed the Writ Application by setting aside the orders passed by the Circle Officer and affirmed by the Deputy Collector Land Reforms as well as the Revisional Authority allowing mutation of certain areas of land alienated from



Plot No. 258 of Khata No. 22 of Village Gorhi Pachama, P.S. Korha in the district of Katihar.

4. Shorn of all other details, the short facts are that one Late Vishwanath Chaudhary executed a gift-deed in favour of the husband of the petitioners, namely, Sachidanand Kuer and in relation to Plot No. 263. The plot in question, namely, Plot no. 258 did not find mention in the gift-deed and, therefore, the learned Single Judge, after going through the orders of the subordinate forums, came to a conclusion that a vendor cannot exceed his / her right of alienating any plot of land which was not gifted to her husband and which she claims as a matter of inheritance from her husband.

5. There cannot be any argument on this aspect of the matter so far as the question of law is concerned that you cannot get a better title than what you have nor can you alienate or transfer a better title than what is vested in you.

6. The Court has gone through the two sale-deeds by virtue of which mutation had been sought by the purchasers and the sale-deeds itself indicates that the right of the vendor flows from the gift-deed. If that is so and that is the admitted position emerging from the official records then obviously the alienation from the land of Plot no. 258 was an exercise beyond the power of alienation since no right in favour of the vendor was vested or is established.

7. The submission of the learned Senior Counsel that what



had been gifted is not a matter of dispute but what has been inherited cannot be disputed. Such submission is never raised which could have merited consideration provided the sale-deed indicated any other mode of acquisition of title by the vendor. However, it is evident that the wife is claiming under the gift-deed and the gift-deed never mentioned Plot No. 258 as one of the plots which were gifted to the husband of the vendor. The plot in question which was gifted primarily related to Plot No. 263.

8. With the above basic fact not having been appreciated by the subordinate forums, the learned Single Judge made no mistake by interfering with the orders and directions, impugned before him.

9. The other submission made by the learned Senior Counsel that such a decision amounts to deciding a title is also misplaced because it is no declaration of title. It is only trying to appreciate whether a title was there in the very first place before alienation of the land.

10. Appeals have no merit. They are dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
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