

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1188 of 2013

In

Civil Writ Jurisdiction Case No.13714 of 2005

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1. Chandradeo Singh son of late Sheonarain Singh
 2. Yogendra Bharti son of late Rajnath Bharti
 3. Rameshwar Ojha son of late Ramakant Ojha
 4. Om Prakash Ojha son of late Yashodanand Ojha
- All are residents of village Dumari, Police Station- Manjhi, District Saran

... .. Appellant/s

Versus

1. The State Of Bihar
 2. The Additional Collector, Chapra, District Saran
 3. The Sub Divisional Officer, Chapra, District Saran
 4. The Deputy Collector, Land Reforms, Chapra, District Saran
 5. The Anchal Adhikari Manjhi Anchal, District Saran
 6. Umanath Ojha son of late Sureshwar Ojha, resident of village- Dumari, Police Station- Manjhi, District Saran (since dead his name has been expunged and is substituted by his heirs and legal representatives)
 - (i) Parwati Devi wife of late Umanath Ojha
 - (ii) Sheonath Ojha son of late Umanath Ojha
 - (iii) Sharvanand Ojha son of late Umanath Ojha
 - (iv) Shambhunath Ojha son of late Umanath Ojha
 - (v) Amarnath Ojha son of late Umanath Ojha
 - (vi) Markandey Ojha son of late Umanath Ojha
- All are residents of village- Dumari, Police Station- Manjhi, District Saran

... .. Respondents/ Respondents 1st set

7. Tarakant Ojha son of late Balram Ojha, resident of village- Dumari, Police Station- Manjhi, District Saran

... .. Petitioner no.5/ Respondent 2nd set

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Bashishtha Narayan Mishra
Mr. Sachidanand Rai

For the Respondent State: Mr. Anshuman Singh, AC to AG

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

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 23-08-2017



Heard learned counsel for the appellants and learned counsel for the State.

2. The writ petitioners being aggrieved by the order dated 06.08.2013 passed by the learned Single Judge of this Court in CWJC No.13714 of 2005 are in appeal before us. By the impugned order, the learned Single Judge has been pleased to hold that there is no illegality or infirmity in the order passed by the Additional Collector, Saran at Chapra, dated 13.12.2004 (Annexure- 1 to the writ application) and having held so the learned Single Judge further held that the parties are at liberty to approach the civil court of competent jurisdiction for getting their right, title and possession decided over the lands under dispute on the basis of materials/ evidence produced by them before the civil court. The learned Single Judge has further clarified that if such a civil suit is filed impleading all the necessary parties, including the State of Bihar and its functionaries, as the question of settlement of lands under dispute under the provisions of Bihar Land Reforms Act, 1950 would be required to be gone into in favour of the either side, then the same shall be decided strictly in accordance with law, on the basis of materials/ evidence produced by the parties, without being prejudiced or influenced by any finding recorded by the revenue authorities in the impugned mutation proceeding.



3. The few facts which will be noticed for disposal of the present appeal at this stage are not in dispute. The impugned order dated 13.12.2004 has been passed by the Additional Collector in Miscellaneous Appeal No.1 of 2003 by which he has set aside the order dated 14.02.2003 passed by the Sub Divisional Officer, Saran at Chapra in Miscellaneous Case No.2/02-03 by which he held that the petitioners Jamabandi on the disputed land rightly has been created and the recommendation of the learned Deputy Collector Land Reforms for correcting the Jamabandi in the name of respondent no.6 is not just and proper. A perusal of Annexure- 1 of the writ application, which has been annexed as Annexure- 4 to the present Letters Patent Appeal would show that the Additional Collector has found that there was a declaration in favour of the ancestors of the respondents in Title Suit No.97 of 1924. The said Title Suit was filed against the legal heirs of the ex-landlord. Although the judgment and decree passed in the said Title Suit was not before the Additional Collector, however, from the appellate court's order, which was on record, the Additional Collector found that the judgment and decree of the original court in suit was upheld by the appellate court and the decision, which was rendered against the legal heirs of the ex-landlord was maintained. The appellants before us are claiming through the



legal heirs of ex-landlord. On this basis the Additional Collector has reached to a conclusion that the possession of the ancestors of the appellant before him on the disputed land seems confirmed.

4. Learned Counsel for the writ petitioners-appellants while arguing the present appeal when confronted with the question as to why not the question of title or possession should be got adequately decided by the civil court of competent jurisdiction and for that reason why the appellants are not approaching the civil court, he expressed an apprehension that findings, as stated above, recorded by the Additional Collector may go against him and for that reason only he is afraid of moving the civil court. On the other hand, learned counsel appearing on behalf of the State submits that the materials available on the record clearly suggest that there is a dispute with respect to right, title and possession over the land in question, which are being claimed by the rival parties on their own basis, it would be only in the fitness of things that such right, title and possession be got decided by a competent civil court.

5. Having heard learned counsel for the appellants as well as learned counsel for the State and upon perusal of the records, this Court finds that there is no illegality or infirmity in the order passed by the learned Single Judge inasmuch as the



apprehension expressed by the learned counsel for the appellants have been fully taken care of in the order passed by the learned Single Judge itself. We make it clear that any finding recorded by the Additional Collector in Miscellaneous Appeal Case No.1 of 2003 will not be the basis for passing of any judgment or decree by a civil court of competence jurisdiction. Civil Court will abide by the directions of the learned Single Judge.

6. Despite valid service of notice on the private respondents, they have chosen not to appear before this Court.

7. In the result, we find no reason to interfere with the order passed by the learned Single Judge save and except to the clarification given herein above.

The appeal is accordingly dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

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