

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11424 of 2017

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1. Gopalji Prasad Narain Sahi S/o Late Hari Prasad Narain Sahi Resident of Village and Post- Gabhirar, P.S.- Gabhirar, District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Chief Conservator of Forest, Bihar.
2. The Additional Principal Chief Conservator of Forest, Bihar.
3. The, Chief Conservator of Forest, Saran At Chapra.
4. The, Regional Chief Conservator of Forest, Saran At Chapra.
5. The, Divisional Forest Officer, Saran At Chapra.
6. The, Collector, Saran At Chapra.
7. The, Deputy Collector, Saran At Chapra.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Dubey

For the Respondent/s : Mr. Awanish Nandan Sinha- GP21

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

3 29-01-2018 Heard Mr. Ranjan Kumar Dubey, learned counsel appearing on behalf of the petitioner and the learned counsel for the State.

The petitioner has filed this writ petition for restraining the respondents not to encroach the private land of the petitioner and further to restrain the respondents from making any construction over the land.

Mr. Ranjan Kumar Dubey, learned counsel for the petitioner submits that the land was settled by Bettiah Maharaj in the name of Bahuria Kamla Devi, wife of Mahendra Pd. Narain Shahi, grandmother of the petitioner on 30.11.1936. The



grandmother of the petitioner gifted the property to the father of the petitioner and petitioner inherited the same from his father. It is further submitted that in the year 2000, the Circle Officer issued notice to the petitioner. Petitioner appeared and filed all the documents but the Circle Officer did not pass any order. Thereafter, the petitioner filed petition before the D.C.L.R., Sadar Chapra being Misc. Case No.4 of 2001-02 and the D.C.L.R. on 26.09.2002 ordered for mutation of the land but again D.C.L.R. on 16.07.2003, recalled the order passed by him on 26.09.2002. The petitioner preferred Jamabandi Correction Appeal No.3 of 2004 and the Additional Collector, Saran allowed the appeal and the order dated 16.07.2003 passed by the D.C.L.R., Sadar Chapra was set aside. It is further submitted that admittedly the petitioner is in possession of the land but the District Forest Officer started construction over the land. The Circle Officer also reported vide Letter No.511 dated 09.05.2017 that the land was settled in favour of Sri Shahi on 21.12.1936 but I find no force in the submission of the learned counsel for the petitioner.

The petitioner filed Annexure 1, the letter showing the settlement of land by the Manager, Bettiah Estate in favour of Bahuria Kamla Devi said to be the grandmother of the petitioner but no survey plot and boundary of land is mentioned. The



petitioner did not produce any notice issued by the Circle Officer. The petitioner has also not filed any papers to show that the land was mutated in the name of grandmother of the petitioner on the basis of the settlement made on 21.12.1936. For the first time, the D.C.L.R. in Case No.4 of 2001-02 ordered for mutation of the name of the petitioner vide order dated 26.09.2002. The D.C.L.R. has got no power under the Act to order for mutation. The original Court is Circle Officer and the D.C.L.R. is appellate authority but it appears that the same D.C.L.R. vide his order dated 16.07.2003 recalled the order of getting the name of the petitioner mutated with regard to the land. The letter of the Manager, Bettiah Estate does not reveal that which plot was settled in favour of Bahuria Kamla Devi. For the first time, it appears that D.C.L.R. has mentioned the plots in his order and it appears that the order of the D.C.L.R. for mutation of the name of the petitioner is without jurisdiction and consequently the Circle Officer vide his letter, Annexure 4 reported that the land in question is situated by the side of the residence of Superintendent of Police and the same is in possession of the Forest Department who has planted trees and now a permanent construction is being made. The Divisional Forest Officer, Saran Forest Division also directed the petitioner to produce the papers of his title over the land known as Janta Park



on which he is claiming his title but the petitioner did not appear before the Divisional Forest Officer and straightway moved this Court for restraining the Divisional Forest Officer. I find that there is disputed question of facts with regard to the ownership of the land of the petitioner.

Having considered the facts aforesaid, I do not find any merit in this writ petition. Accordingly, this writ petition is dismissed.

(Prabhat Kumar Jha, J)

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