

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19786 of 2014

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1. Saryu Chand Upadhyay S/o Late Kalika Chand Upadhyay
2. Sushil Upadhyay S/o Late Ram Bachan Chand Upadhyay, Both are Resident of
Village + Post Pitardh, P.S. Agawan Bazar, District Bhojpur.. Petitioner/s
- Versus
1. Bihar Sarkar through Collector, Bhojpur.
2. Anchal Adhikari Piro.
3. Master Ram S/o Lagan Ram
4. Paras Ram
5. Bhim Ram
6. Kisan Ram, All above are S/o Master Ram
7. Kesho Ram S/o Kishun Ram
8. Sheojee Thakur
9. Jai Ram Thakur, above both are S/o Sanhtu Thakur, All are Resident of Village +
Post Pitath, P.S. Agiaon Bazar, District Bhojpur. Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr. Gopal Govind Mishra
For the Respondent/s : Mr. Indradeo Prasad, SC-27
Mr. Sunil Kumar Singh, AC to SC-27

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 11-05-2018

The petitioners have filed this application for quashing the order dated 15.09.2014 passed by 1st Additional District Judge, Bhojpur, Ara in Miscellaneous Appeal No. 43 of 2013 whereby and whereunder the learned Additional District Judge refused to interfere with the order of Munsif-I, Bhojpur, Ara passed in Title Suit No. 7 of 2013.

2. Heard learned counsels for the petitioners as well as the respondents.

3. The petitioners had filed Title Suit No. 7 of 2013 against the respondents for declaration of their right, title and possession over the land mentioned in the schedule-A of the plaint. The petitioners further prayed to injunct the respondents from causing any interference in their



possession and also transferring the suit land in favour of any person. The land in question stands recorded as ‘Gair Majarua Malik’. The petitioners claim that the land was settled in favour of their ancestor and the name of their ancestor was entered in jamabandi register of Government of Bihar.

4. From the impugned orders of Appellate Court as well Trial Court it appears that the land mentioned in schedule-A of the plaint was recorded as ‘Anabad Bihar Sarkar’ in the revisional survey khatian and it was settled in favour of the respondents 2nd set. The respondents 2nd set claim to be in possession over the suit property and this fact finds support from the report of the Pleader Commissioner. The court below while rejecting the prayer, observed that the Pleader Commissioner found huts of the respondents 2nd set over the suit premises Thus I find that the petitioners have neither *prima facie* case nor balance of convenience lies in their favour requiring any interference in the impugned order.

5. For the reasons stated above, I do not find any merit in this application and is accordingly dismissed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	18/05/2018
Transmission Date	

