

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.966 of 2015

IN

Civil Writ Jurisdiction Case No. 16770 of 2013

- =====
1. The State of Bihar through the Principal Secretary of Land Reforms Govt. of Bihar, Patna.
 2. The Principal Secretary, Deptt. & Land Reforms, Govt. of Bihar, Patna.
 3. The Commissioner, Patna Division, Patna.
 4. The District Magistrate, Nalanda.
 5. The Additional Collector, Nalanda.
 6. The Sub- Divisional Officer, Rajgir, Nalanda.
 7. The D.C.L.R. Rajgir, Nalanda
 8. The C.O. Rajgir, Nalanda.
 9. The Sub Registrar, Rajgir, Nalanda

.... Appellant/s

Versus

1. Baidyanath Prasad Singh, son of Late Narsingh Singh
2. (A) Sunil Kumar Singh, son of Baidyanath Prasad Singh
(B) Shailendra Kumar, son of Baidyanath Singh,
All resident of village -Nayee Pokhar, P.S. Rajgir, District Nalanda

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Manoj Kumar Ambastha, S.C.23
Mr. Tripurari Nath Ambastha, A.C. to S.C.23
For the Respondent/s : Mr. S. Parasmani, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

**HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date: 26-03-2018

This matter was last heard on 06.03.2018 and was adjourned until today, when put up there is neither any office note of the Section concerned nor the affidavit filed on 05.03.2018 has been paginated. Learned Registrar General informs that an order is issued by the Hon'ble the Chief Justice on 19.2.2018 requiring the Section(s) concerned to ensure that before any proceeding is put up before the



Bench it should be duly paginated along with indexing/flagging failing which it would invite punitive action.

Let the Sectional Heads be advised to ensure that each proceeding is duly paginated and is accompanied with proper office note before it is put up before the bench failing which it would invite punitive action on the disciplinary side in terms of the order of Hon'ble the Chief Justice dated 19.02.2018.

Let this order be circulated amongst all Section(s) of the High Court connected with the Court proceedings and be duly served on all attached therewith.

Re: L.P.A. No. 966 of 2015

This appeal under Clause 10 of the Letters Patent of the High Court of Judicature at Patna is filed by the State feeling aggrieved by the judgment and order dated 26.02.2014 passed by the learned Single Judge of this Court in C.W.J.C. No. 16770 of 2013 to the extent the writ petition has been allowed and the order bearing memo No.827 dated 08.12. 2012 passed by the D.C.L.R., Rajgir at Nalanda whereby he had refused permission for sale of land appertaining to Khata No.697 Khesara No. 7423 admeasuring 22 decimals of the total area of 66 decimals in Mauza- Rajgir (Nayee Pokhar), District Nalanda has been quashed and set aside.

In the nature of the judgment and order which this Court



intends to pass after consideration of the rival submissions made by the learned counsel representing the respective parties it would not be required to delve into the merits of the contest. Suffice it to say that the writ petition was filed praying for the following reliefs.

“1. That this is an application for issuance of a writ in the nature of certiorari to quash the part of the memo No. - 827 dated 08.12.2012 passed by the Deputy Collector Land Reforms, Rajgir, Nalanda by which he has refused to grant permission for sale of the land appertaining to Khata No.697, Khesara No.7423 measuring about 22 decimal and land appertaining to Khata No.332, Khesara No.2456 measuring about 40 decimal and 44 decimal respectively and further for issuance of a writ in the nature of mandamus directing and commanding the authorities to grant permission to the petitioners for sale of the Raiyati Lands of the petitioner and/or for issuance of any other writ/writs, order/orders, direction/directions which seem just and equitable in the facts and circumstances stated hereunder.”

The writ petition was allowed by the learned Single Judge vide judgment and order dated 26.02.2014 and the order of the D.C.L.R., Rajgir to the extent it refused to permit the writ petitioners to sale land appertaining to Khata No.697, Khesra No.7423 to the extent of 22 decimals and Khata No. 2456 to the extent of 62 decimals was set aside. It is feeling aggrieved by the judgment and order of the Single Judge that the State is in appeal to the extent relief is granted by the learned Single Judge in so far as it relates to Khata No.697 Khesra No. 7423 admeasuring 22 out of 66 decimals in Mauza Rajgir (Nayee



Pokhar) in the district of Nalanda.

According to Mr. Ambastha learned appellant counsel the proceedings in so far as the said plot is concerned, was yet to attain finality and thus the writ petition itself was premature. It is submitted that since the writ petitioner failed to satisfy the D.C.L.R. on his title to the plot in question that the Circle Officer was directed to hold enquiry but before any report could be submitted that the petitioner rushed to this Court and the learned Single Judge not appreciating the contention advanced, has allowed the writ petition.

In reference to the supplementary affidavit filed in the present proceedings with particular reference to Annexure-A thereto, it is submitted that the report has since been submitted by the Circle Officer and would confirm that the petitioner was found wanting on the documents supporting his title in so far as the plot bearing Khata No. 697 Khesra No.7423 to the extent of 22 decimals of the 66 decimals is concerned.

Despite time granted no document of title is produced by learned counsel for the respondent-writ petitioner. Mr. S. Parasmani appreciating the state of absence of documents on title, the legal position settled on the issue as well as the observations made during the course of the proceedings, has sought permission to withdraw the relief prayed in the writ petition in so far as it relates to Plot No.697



Khesara No. 7423 admeasuring 22 decimals of the total area of 66 decimals in Mauza- Rajgir (Nayee Pokhar), District- Nalanda to enable the petitioners to pursue such remedy as available to them in law for establishing title over the plot in question and considering the legal position on the issue as well as the facts accompanying the proceedings, we permit him to do so.

Mr. Ambastha learned State counsel appearing for the appellant has no objection to such concession sought by Mr. Parasmani.

Having heard learned counsel for the parties and considering that the very foundation for the present appeal i.e. the relief granted to the petitioner by the learned Single Judge in so far as it related to Plot bearing Khata No. 697 Khesara No. 7423 admeasuring 22 decimals of the total area of 66 decimals in Mauza- Rajgir (Nayee Pokhar), District Nalanda, has been removed by the petitioner by choosing not to press for the said relief albeit, with liberty to espouse his grievance before the proper forum as available in law, we are persuaded to allow him such concession and as a consequence we deem it fit and proper to modify the judgment and order put to appeal herein to the extent it relates to plot bearing Khata No.697 Khesara No. 7423 admeasuring 22 decimals of the total area of 66 decimals in Mauza- Rajgir (Nayee Pokhar), District Nalanda and the relief so prayed by the petitioner to such extent is disposed of as not pressed and



consequently the writ petition in so far as plot bearing Khata No. 697, Khesara No. 7423 admeasuring 22 decimals of the total area of 66 decimals in Mauza- Rajgir (Nayee Pokhar), District Nalanda is concerned, is disposed of as not pressed, while preserving liberty for the petitioners to seek their remedy before such forum as available to them in law.

The judgment and the order of the learned Single Judge is modified to such extent and as a consequence this Letters Patent Appeal is disposed of as infructuous.

(Jyoti Saran, J)

(Chakradhari Sharan Singh, J)

Bibhash

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.04.2018
Transmission Date	NA

