

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.468 of 2017
In
Civil Writ Jurisdiction Case No.10062 of 2011

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1. Ramni Ranjan Prasad Sinha @ Ramni Ranjan Prasad, Son of Late Bhola Prasad, resident of Village Karup English, Police Station Karakat Via Goroul, District- Rohtas at Sasaram.
 2. Md. Kasim, Son of Late Sheikh Md. Sharif, resident of Village Karup English, Police Station Karakat Via Goroul, District- Rohtas at Sasaram.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Superintending Engineer, Sone Nahar Sub Division Nasariganj, Rohtas.
4. The Executive Engineer, Sone Nahar Sub Division, Nasariganj, Rohtas.
5. The Sub Divisional Officer Sone Nahar Sub Division, Nasariganj, Rohtas.
6. The Block Development Officer, Karakat, District Rohtas.
7. The Circle Officer, Karakat, District- Rohtas.
8. The Mukhiya Karup Panchayat Karakat, District Rohtas.
9. The Mukhiya Jaishree Panchayat District Rohtas.
10. The Mukhiya Gorai Panchayat, District Rohtas.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Mahasweta Chatterjee, Adv.
For the Respondent/s	:	Mr. Anjani Kumar, AAG 4
		Mr. Amit Kumar Jha, AC to AAG 4
		Mr. Shailendra Kumar Singh, AC to AAG 4

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)



Date : 22-11-2018

Heard learned counsel for the appellant Ms. Mahasweta Chatterjee and Shri Anjani Kumar, learned Senior Counsel for the State.

The appeal questions the correctness of the judgment of the learned Single Judge whereby the relief prayed for quashing of the notice dated 20th May 2011 has been declined holding that the appellant has not been able to establish his right of permanent settlement in respect of the land in question governed by the Bihar Canal Chat Land Settlement Rules, 2010.

The contention of the learned counsel for the appellant is that the ancestors of the appellant continued to be in occupation of the land by way of the payment of rent for which receipts were issued by the respondent Canal Department for the past almost 6 decades and in view of this continuity of possession and settlement the same will amount to a permanent settlement that cannot be curtailed or interfered with on the strength of any subsequent rules framed or even otherwise. Learned counsel for the appellant relied upon the Full Bench decision of this Court in the case of **Mt. Agni and another v. Chowa Mahto and other** reported in **AIR 1968 Patna 302** in support of the submissions.



On the other hand the State defends the impugned judgment on the ground that there is no provision on record which may establish that the appellant or his ancestors had a permanent settlement in their favour and even thereafter with the promulgation of the Bihar Canal Chat Land Settlement Rules, 2007 as now substituted by the 2010 rules, there is no legally enforceable right in respect thereof.

We have considered the submissions raised. At the very outset, we may clarify that the case of **Mt. Ugni** (supra) is not even remotely applicable to the facts of the present case inasmuch as the said Full Bench decision was in relation to the raiyati interest of tenancy land governed by the Bihar Tenancy Act, 1885 (8 of 1885). The present is a case exclusively governed by instructions and subsequent rules framed referred to hereinabove relating to the land adjoining canals and therefore the said judgment is nowhere attracted on the issues raised in the present appeal.

Coming to the claim on merits, we find settlement in favour of the ancestor of the appellants appears to have been made on annual basis and the receipts were issued from time to time and the same is also clearly explainable from the facts as are borne out from the record, namely that there is no document which may



establish that a permanent settlement had been made either with the ancestor of the appellants or with the appellants themselves.

Learned counsel submits that the receipt which has been placed on record does indicate that the settlement was a permanent settlement and for which heavy reliance has been placed on the receipt pertaining to the year 2002-03.

We have carefully read the said receipts and we find that the same affirms the continuance of the settlement only for one year and the words used therein will not amount to a permanent settlement in favour of the appellant.

Even otherwise the land being State land there is no occasion for accrual of any permanent rights over the said land which are governed by a set of rules now enforced, the vires whereof has not been challenged. The learned Single Judge has taken notice all these facts and has arrived at the conclusion that the appellant does not have any indefeasible right to remain in continuous possession over the land. We entirely agree with the same and additionally we find that neither under the 2007 rules nor under the 2010 Rules is there any such provision in the shape of a saving clause so as to protect any such continuous interest as claimed by the appellants.



Consequently, in absence of any such statutory provision that may protect the interest of the appellant as claimed, we find no merit in the appeal which is accordingly rejected.

(Amreshwar Pratap Sahi, CJ)

(Jyoti Saran, J)

Bibhash/Ranveer

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