

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4003 of 2014

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Nutneshwar Singh S/O Late Bisheshwar Singh Resident Of Village-
Barahgoriya, P.O.- Bithuar P.S.- Pandaul, Distt.- Madhubani (Bihar)

.... Petitioner

Versus

1. Nandeshwar Singh S/O Late Bisheshwar Singh Resident Of Village-
Barahgoriya, P.O.- Bithuar P.S.- Pandaul, Distt.- Madhubani (Bihar)
2. The State Of Bihar Represented By The Collector, Madhubani
3. The L.R.D.C., Madhubani
4. The Anchala Adhikari, Pandaul, Madhubani

.... Respondents

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Appearance :

For the Petitioner : Mr. Shashi Nath Jha, Advocate

For the Respondents : Mr. Hitesh Suman, AC to SC-13.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

5 23-01-2018 This application has been filed to set aside the order dated 18.11.2013 passed by learned Sub Judge-V, Madhubani in Title Suit No.58 of 2004 whereby and whereunder the prayer of the petitioner to transpose him as plaintiff was rejected.

2. Heard learned counsel for the petitioner as well as the respondents (State of Bihar).

3. It appears that the respondent no.1 filed a Title Suit No.58 of 2004 against the State of Bihar for declaration of title over the land mentioned schedule-I of the plaint. The plaintiff further sought relief for declaration that the order dated 01.10.1985 and 18.03.1987 passed by defendant no.2 in a proceeding under Section 4G and 4H of BLR Act and the order



dated 20.03.2001 passed by the Collector, Madhubani dismissing the appeal as illegal, void, without jurisdiction, in operative and not binding of the plaintiff besides other reliefs. The petitioner who is full brother of the respondent no.1 filed intervenor petition and he was impleaded as defendant no.4 to the suit. Subsequently, the petitioner filed petition to transpose him as plaintiff, as the contesting plaintiff left taking interest in the suit. The petitioner claims that the land in dispute is his ancestral land and he has interest to in the suit property.

4. The learned counsel for the respondents on the other hand opposed the submissions.

5. On perusal of impugned order, I find that the plaintiff has claimed title by virtue of settlement and also by virtue of adverse possession against the State of Bihar. The learned court below rejected the prayer of the petitioner in view of the provision of order 23 rule 1(A). According to Order 23 Rule 1(A) a person interested for transposing him as plaintiff has to made out a case of substantial question to be decided. Since the petitioner has failed to make out a case of any substantial question of law to be decided against him, his prayer was rejected. If the petitioner has any interest in the property, he is at liberty to file the suit on its own cause of action. The plaintiff claims title by virtue of



settlement as well as by adverse possession. So in view of claim of plaintiff which based of his own cause of action, the court below has rightly refused to transpose the petitioner as plaintiff to the suit.

6. This application is devoid of merit and is accordingly dismissed.

(Sanjay Kumar, J)

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