

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.68 of 2015

In

Civil Writ Jurisdiction Case No.16124 of 2007

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1. Ranjan Singh, son of late Suresh Singh.
 2. Ambu Singh @ Omprakash Singh, S/o Late Surendra Singh.
 3. Vikash Singh @ Vikas Kumar Singh, son of Dadan Singh.
- All are resident of Village-Bangra, Police Station- Thawe,
District- Gopalganj.

... Repondents... Appellants

Versus

1. The State of Bihar.
 2. The Additional Collector, Siwan.
 3. The Deputy Collector, Land Reforms, District- Siwan.
 4. The Circle Officer, Anchal- Barharia, District- Siwan.
- Respondent.... Respondents
5. Prithvi Nath Singh, Son of Late Ram Sakal Singh, Resident of Village- Ghurapali, Police Station - Rasoolpur, District- Siwan.
 6. Kameshwar Prasad Singh, Son of Late Viswanath Singh, at present resident of Village- Amanaur, Police Station - Amanaur, District- Chapra (Saran) at present resident of village- Bangara, Police Station- Thawe, District- Gopalganj.

... .. Respondents

Appearance :

For the Appellant/s : Mr. Umesh Kumar Singh, Adv.
For the Respondent/s : Mr. Inderdeo Prasad, SC-27.

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 26-11-2018

Heard Mr. Umesh Kumar Singh, learned counsel appearing for the appellants and Mr. Indradeo Prasad, learned Standing Counsel No.27 for the State. Though served, the private respondents who were writ petitioners have not registered appearance.

It is feeling aggrieved by the judgment and order dated 15.05.2014 of the learned Single Judge in CWJC No.16124 of 2007,



whereby the writ petition was allowed and the order of cancellation of Jamabandi standing in the name of the writ petitioners passed by the Deputy Collector Land Reforms, Siwan together with its affirmation by the Additional Collector, Siwan, was set aside with further direction for carrying out necessary correction that the private respondents as appellants are before this Court in this intra Court appeal.

Facts accompanying the present appeal would confirm that even before vesting of the estate under the Bihar Land Reforms Act, 1950 [incorrectly recorded as 'the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act in the impugned judgment], a Jamabandi was created in the name of the writ petitioners and/or their ancestors. The situation continued thus, when it dawned upon the appellant-private respondents to seek a correction of Jamabandi in their name, almost 45 years later when they filed one such application before the Deputy Collector Land Reforms, Siwan. An inquiry was made by the Circle Officer who confirmed that the Jamabandi in question was created in the name of the writ petitioners even prior to 1950. Despite such position and on complete misconception of the legal position as well as the jurisdiction so vested in him that the Deputy Collector Land Reform, Siwan proceeded to order not only for cancellation of Jamabandi in the name of the writ petitioners but also for creation of Jamabandi in favour of appellant- private respondents.



It needs no reference to any judicial pronouncement or the statutory provisions to record that the Deputy Collector Land Reforms, Siwan has absolutely no such jurisdiction vested in him to allow the application of the appellant-private respondents or to interfere with the Jamabandi created in the name of the writ petitioners even prior to the enforcement of the Land Reforms Act, 1950, the reasons whatsoever be. The illegality did not stop rather was perpetuated when the order of the Deputy Collector Land Reforms, Siwan was affirmed by the Additional Collector, Siwan.

It is but obvious that such illegal orders, on being questioned by the writ petitioners has been quashed and very rightly the learned Single Judge has opined that in case the private respondents are aggrieved by such creation of Jamabandi their remedy lay before the Civil Court of competent jurisdiction for establishing their right, title and interest over the land in question. It is observing thus that the learned Single Judge has quashed the order passed by the Deputy Collector Land Reforms, Siwan impugned at Annexure-2 as well as the order passed by the Appellate Authority i.e. the Additional Collector, Siwan in Jamabandi Correction Appeal no.105 of 1999-2000/35 of 2001-2002 while allowing the writ petition, which order passed by the learned Single Judge suffers no infirmity requiring any interference for it is not only in tune with the statutory provisions but also supported with judicial pronouncements.



That it is undisputed that Jamabandi was created even before the enforcement of the Land Reforms Act, 1950, any interference therewith had to be in a lawful manner and certainly neither the provisions of the Bihar Land Tenants Holdings (Maintenance of Records) Act, 1973 as amended by Act No.3 of 1983 nor the Bihar Land Reforms Act, 1950 vests any such jurisdiction in the Deputy Collector Land Reform to interfere with such creation of Jamabandi.

That the liberty for taking recourse to any lawful forum available to the appellant-private respondents, is already present in the order of the learned Single Judge, the appellant-private respondents, if so advised, can take recourse thereto.

In the circumstances noted, we find no reason to interfere with the opinion of the learned Single Judge.

The appeal is dismissed.

(Jyoti Saran, J)

(Rajeev Ranjan Prasad, J)

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