

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.294 of 2018

In

Civil Writ Jurisdiction Case No.2747 of 2016

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Madan Mohan Mishra, Son of Sheo Kumar Mishra @ Dukhi Pandit @ Dukhi Mishra resident of Village- Umapur, Police Station- Bhagwanpur, District- Kaimur (Bhabua).

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Collector, Kaimur (Bhabhua).
3. The Additional Collector, Kaimur (Bhabua).
4. The Sub Divisional Officer, Kaimur (Bhabua).
5. The Circle Officer, Bhagwanpur, District- Kaimur (Bhabua).
6. The Bihar Electricity Board, Bailey Road, Patna through its Secretary.
7. The Bihar Power Transmission Company Limited, Bailey Road, Patna through its Managing Director.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Suraj Narain Yadav, Advocate
For the State	:	Mr. Asif Kalim, A.C. to AAG-12
For Respondent No. 7	:	Mr. Anand Kumar Ojha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 04-12-2018



Heard Shri Suraj Narayan Yadav, learned counsel for the appellant and Shri Anand Kumar Ojha for the Respondent No. 7 and Shri Asif Kalim for the respondent-State.

2. The appellant is claiming title over land which according to the State of Bihar has been recorded as Anabad Bihar State in the Revenue Records. The dispute is with regard to 5 decimals of land of R.S. Plot No. 96 and 12 decimals of land of R.S. Plot No. 100 which the appellant contends has been wrongly recorded in favour of the State of Bihar. For this litigation that has been contested by the appellant that has been narrated in detail in Paragraphs 8 to 17 of the memo of appeal. It has, however, come on record in the counter affidavit filed by the respondent-State that the appellant had succeeded before the Consolidation Officer and an order had been passed in his favour on 2nd of July, 2011 which came to be challenged in appeal and the Appellate Authority has set aside the said order on 24th of May, 2017 in Appeal No. 27 of 2016-17 under Section 10(6) of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956.

3. Thus, at present in view of the said appellate order the revenue records still continue to be in favour of the State of Bihar.



4. Learned counsel for the appellant submits that the appellant has a right of revision against the said order and the same cannot be said to be final, moreso, keeping in view the overwhelming evidence in favour of the appellant indicating his title and possession over the land.

5. We find that the learned Single Judge before whom the prayer was made for directing the authorities not to interfere with the possession of the appellant has declined to entertain the petition with the observation that in the event the appellant is claiming compensation the remedy lies in approaching the Civil Court.

6. Learned counsel contends that the respondents had no authority to occupy the land forcibly as that clearly violates Article 300A of the Constitution of India and not only this the payment of compensation is not the issue but it is the title and possession of the appellant which is being unjustifiably interfered with by the respondents.

7. We have considered the submissions raised and in view of the fact that the appeal filed and decided on 24th May, 2017 has held the title of the State of Bihar over the land to be intact, the same could govern the parties so long that order is not set aside, reversed or modified by the competent forum. In



the event, the appellant succeeds against the said order, he can still register his claim for compensation and, therefore, we find no reason to interfere with the judgement of the learned Single Judge without prejudice to the rights of the appellant in the cases that he is contesting or may contest before the appropriate Court or forum to establish his rights.

8. The appeal is accordingly consigned to records.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

P.K.P./-R.S.Sen

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