

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15551 of 2017

1. Dev Narayan Lal, Son of Late Banbari Lal,
2. Dinesh Prasad Lal,
3. Ganesh Prasad Lal,

Both sons of Dev Narayan Lal, Residents of Village/Mohalla-
Hanuman Nagar, P.S.- Rosera, Anchal- Shivajee Nagar, District-
Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar.
2. Principal Secretary, Administrative Department, Govt. of Bihar.
3. Commissioner, Darbhanga Division, Darbhanga.
4. District Magistrate-cum-Collector, Samastipur.
5. Superintendent of Police, Samastipur.
6. Sub-Divisional Officer, Samastipur.
7. Deputy Collector Land Reforms, Samastipur.
8. Circle Officer, Rosera, District- Samastipur.
9. Station House Officer Khanpur Police Station District- Samastipur.
10. Sukan Sahani,
11. Ram Dev Sahani,
Both sons of Late Munna Sahani,
12. Budhu Sahani, Son of Late Chumman Sahani,
13. Jagdish Sahani, Son of Late Sri Pati Sahani,
All residents of Village- Sedukha, Tole- Manpur, P.S.+Anchal- Khanpur,
District- Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pramod Kumar, Adv.
For the Respondent/s	:	Mr. Sanjay Kumar, AC to AAG -3

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 05-10-2018

Heard Mr. Pramod Kumar, learned counsel for the



petitioner and Mr. Sanjay Kumar, learned AC to AAG-3 for the respondent-State.

The present writ application has been filed for a direction to the Respondent Nos. 4 to 6 to provide adequate protection to the petitioner so that he may construct a boundary wall over his raiyati land appertaining to several plots as mentioned in paragraph no.1 of the petition. However, at present, learned counsel for the petitioner confines his prayer only for the protection of the land mentioned in paragraph no.4 of the petition, which is appertaining to Khata No.170, new Khata No.425, Old Plot No.1597, new Plot No.2249. A supplementary affidavit has also been filed to that effect.

The petitioner claims to have purchased the land in question through sale deed dated 26.04.1982 and subsequently he wanted to construct a boundary wall over it, but the same was obstructed by the private Respondent Nos. 10 to 13. Consequently, the petitioner filed a case under the Land Dispute Resolution Act being L.D. Case No. 54 of 2014. The Respondent No.7, DCLR, Samastipur, vide order dated 08.12.2014, as contained in Annexure-4, disposed of the aforesaid case giving liberty to the private respondents to approach the competent authority for the redressal for their



grievance. The petitioner challenged the said order of DCLR dated 08.12.2014 before Respondent No.3, the Divisional Commissioner, Darbhanga by preferring L. D. Appeal No. 48 of 2015. The Commissioner Darbhanga, vide order dated 13.06.2017, as contained in Annexure-6, came to a conclusion that he has no jurisdiction to decide the question of title over the land in question since the petitioner has claimed the land by virtue of Kewala, whereas the private respondents have claimed the land through settlement by the ex-land lord and also in view of the order dated 24.06.2014, passed in I.A. No.1572 of 2013 filed in CWJC No.1091 of 2013. However, he set aside the order passed by the DCLR.

It is submitted by learned counsel for the petitioner that the petitioner's title is not in dispute.

In the considered opinion of this Court, in exercise of jurisdiction conferred under Article 226 of the Constitution of India, the issue of title cannot be decided on the basis of disputed question of facts which requires leading of evidence. Hence, this Court is not inclined to interfere.

However, the petitioner is at liberty to submit a proper representation before the Respondent No.4, the District Magistrate, Samastipur and Respondent No.5, the



Superintendent of Police, Samastipur for redressal of his grievance. If such representation is filed within a period of three weeks, before the Authority concerned, then it is expected from the Authority concerned to look into the matter and to dispose of the said representation within a period of six weeks of its filing.

Accordingly, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

