

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5971 of 2017

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1. Basil Michael Quadros, S/o James Mervjnv Quardros, Resident of village- Karnagarh, P.S.- Nathnagar, P.O.- Champanagar, District- Bhagalpur.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Animal Husbandry and Fishery Department.
2. The Director, Fishery Department, Government of Bihar.
3. The Divisional Commissioner, Bhagalpur.
4. The District Magistrate, Bhagalpur.
5. The District Fisheries Officer-cum-Chief Executive Officer, Bhagalpur.
6. The Circle Officer, Shahkund Block, Bhagalpur.
7. Officer-in-Charge, Sajour, P.S. Shahkund, Bhagalpur.
8. Matsyajivi Sahyog Samiti Ltd., Shahkund, Bhagalpur through its Chairman Bhushi Lal Mahto, S/o not known to the petitioner, resident of Village- Belthur, P.S. Shahkund, District- Bhagalpur.
9. Alok Kumar, S/o Saligram Mahaldar, Mukhiya Dariyapur Gram Panchayat, P.S.- Sajour, District- Bhagalpur.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh

For the Respondent/s : Mr. Subhash Chandra Yadav-Gp15

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 04-10-2018 Heard learned counsel for the petitioner and learned counsel appearing on behalf of respondents.

On the last date i.e. 11.09.2018 the case was adjourned at the instance of State to file counter affidavit and respondent nos.8 and 9 also prayed for two weeks time but no counter affidavit has been filed on behalf of the State and on behalf of the Private respondents.

The petitioner has filed this writ petition for the



following reliefs:-

- (i) For quashing of “Parwana” dated 20.10.2016 issued by District Fishery Officer, Bhagalpur (Respondent No.5) so far as Jalkar mentioned at serial no.155, whereby 188 Jalkars of Shahkund block including private/raiya Jalkar of the petitioner has been settled with the Chairman of Matsyajivi Sahyog Samiti Ltd., Sahkund, Bhagalpur (Respondent No.8) for the period intervening 01.07.2016 to 30.06.2017 completely ignoring this aspects of the matter that the Jalkar mentioned at Serial No.155 namely “Saheb Pokhar” is personal (Raiya) pond of the petitioner.
- (ii) For further to direct the respondent authorities including Respondent No.9 to restrain them from fishing the fish from the private Jalkar of the petitioner mentioned at serial no.155 of the impugned Parwana, which has been wrongly settled with respondent Co-operative Societies (Respondent No.8) who has ultimately issued “Jalkar Settlement Patta” in favour of respondent no.9.
- (iii) For further to hold that in view of judgment and decree passed by learned Sub-Judge-1, Bhagalpur in Title Suit No.217/1987 which has attained finality is sufficient enough to establish that the Jalkar in question does not belong to the State of Bihar rather the petitioner has got perfect right, title and possession over the same and the State of Bihar has no authority to settle the said Jalkar to the Co-operative Society (respondent no.8) treating the same as Government property.

Learned counsel for the petitioner submits that the



petitioner owned plot no.968 and 908 measuring 5.60 acre. There is a pond on the land and the same is in exclusive possession of the petitioner. During the revisional survey, plot no.968 and 908 were wrongly recorded in the survey khatiyān as Anabad Bihar Sarkar. The petitioner filed Title Suit No.217 of 1987 for correction of wrong entry in the survey records and for declaration of title and possession. The suit was decreed on 14.03.1989 and on the basis of judgment records of right were corrected and the name of the petitioner and others were entered into records of right after necessary correction but the District Fishery Officer settled the private pond of the petitioner with respondent no.8 and 9 and issued Parwana for different ponds contained in Memo No.838 dated 30.11.2015 including the pond of the petitioner.

The State has not filed any counter affidavit controverting any facts.

Having considered the facts aforesaid, it appears from perusal of the record and judgment passed in Title Suit No. 217 of 1987 that Civil Court has already decided the title and possession of the petitioner. On the basis of judgment and decree passed in Title Suit No.217 of 1987 records of right have also been corrected. Therefore, I find that Parwana for settlement of the pond situated on plot no.968 and 908 by the District Fishery



Officer in favour of respondent no.8 and 9 is illegal as District Fishery Officer is not at all competent to settle the ponds owned by the Private individual.

Accordingly, Parwana, so far it relates to the settlement of pond of the petitioner is quashed and the writ petition is accordingly allowed.

(Prabhat Kumar Jha, J)

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