

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12103 of 2016

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Bhupendra Lal Das son of Sri Sahdeo Lal Das Resident of village - Parsa
Birwal, Police Station - Chhatapur, Anchal - Pratapganj, District - Supaul.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner, Koshi Division, Saharsa.
3. The Deputy Collector Land Reforms, Birpur, District - Supaul.
4. Sanjay Kumar Singh
5. Sunil Kumar Singh Both are sons of Braj Nath Singh resident of village
Sukha Nagar, Police Station - Pratapganj, District - Supaul.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Santosh Kumar Verma Mr. Abhishek
For Private Respondent nos. 4 & 5:		Mr. Shailendra Kumar Singh
For the Respondent/s	:	Mr. Y.P. Sinha- AAG-15

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

3 21-01-2019 Heard learned counsel for the parties.

2. Respondent nos. 4 and 5 had filed a case under the Bihar Land Disputes Resolution Act, 2009, giving rise to Case No. 13 of 2012 before the Deputy Collector, Land Reforms, Birpur, the competent authority, under the Act, seeking declaration of their right, title and interest in respect of a chunk of land, questioning *jamabandi* no. 244 created in favour of the petitioner. The respondents asserted that the land was purchased by their great-grandfather in the year 1893 from one Goni Singh and Maharaj Singh, in whose name C.S. Khatian was prepared, showing their respective shares and the land was recorded



under old Khata No. 129. They also asserted in the petition before the Deputy Collector, Land Reforms that in the year 1952, said C.S. Khata No. 129 was created by the father of the petitioner and under the said C.S. Khata No. 129, he had purchased only 26 Bigha of land, whereas after calculation, total area was 40 Bigha and that the petitioner had illegally got created *jamabandi* with respect to 40 Bigha of land. In the proceeding before the Deputy Collector, Land Reforms, the petitioner appeared on notice and set up a case, denying the claim of the said respondent nos. 4 and 5 that the total area of land was 89 Bigha, which belonged to Gaini Singh and Dilip Singh (half share) and Maharaj Singh having half share. The petitioner denied that the father of the petitioner had purchased only 26 Bigha and asserted that petitioner's father had rather purchased 44.5 Bigha through a registered sale deed.

3. Based on rival claims of the parties, the Deputy Collector, Land Reforms, by order dated 19.04.2012, has declared title of respondent nos. 4 and 5 over the disputed land. The petitioner thereafter filed an appeal before the Commissioner, Koshi Division, Saharsa, against the order of the Deputy Collector, Land Reforms, giving rise to Appeal No. 198 of 2012, which came to be dismissed by order dated 26.12.2014.



The petitioner then preferred a case under the Bihar Land Tribunal, Patna, giving rise to B.L.T. Case No. 106 of 2015, against the orders of the Deputy Collector, Land Reforms, Birpur and the Commissioner, Koshi Division, Saharsa. The Tribunal has disposed of the case with the following observations:-

“7. The petitioner has not brought on records of the rent receipt issued before vesting of the jamindari which shows that his vendor had been paying rent for the said 40 bigha of land. After perusal of the records and orders of the lower revenue courts it is crystal clear that the orders have been passed after hearing both the parties and after examined the relevant records produced by both the parties. Everything is mentioned in the both the orders on the basis of records. The father of the petitioner never raised any objection regarding the land belongs to the opposite parties and also never claimed the ownership of land of opposite parties i.e. 26 bigha and odds of Khata No. 129. The father of the petitioner or the petitioner never raised any objection before the Survey Authority or the Consolidation Officer.

This case both the parties have



purchased the same land from the same Khatiyani Raiyat. Hence in this circumstances order cannot be passed by this Tribunal. This is a matter civil in nature. The aggrieved parties are advised to go before the competent Civil Court. The proceeding is closed.”

4. Assailing the impugned order, learned counsel for the petitioner has relied on a Division Bench decision of this Court in case of *Maheshwar Mandal and Another Vs. The State of Bihar and Ors.* reported in *2018 (3) PLJR 1007*. Paragraph 55 of the said decision is relevant of the said purpose and is being reproduced herein below:-

“In the light of the discussions which we have made hereinabove, it is also declared that sub-section (5) of Section 4 of the Act of 2009 has to be read in consonance with sub-section (2) and sub-section (3) of Section 4 of the Act of 2009. Sub-section (5) of Section 5 has to be taken as a mandatory provision. It shall be the duty of the competent authority to close the proceeding which involve question of title and rights and are in the nature of disputes covered under any of the six enactments mentioned under schedule-



‘I’ of the Act of 2009 which have not been adjudicated by a competent civil court. In all such cases the competent authority shall while closing the proceeding leave it open to the parties to seek their remedies before the competent civil court.”

5. With reference to the said decision, learned counsel for the petitioner contends that the court below ought to have closed the proceedings as the matter related to adjudication of respective claims of the parties of their title in respect of disputed land.

6. Learned counsel, appearing on behalf of the private respondent nos. 4 and 5, does not dispute the legal proposition emanating from the Division Bench decision in case of ***Maheshwar Mandal and Another Vs. The State of Bihar and Ors.*** (supra) and has agreed that the title can be decided only by civil court of competent jurisdiction.

7. Considering the law laid down in case of ***Maheshwar Mandal and Another Vs. The State of Bihar and Ors.*** (supra), this application is allowed to the extent that the decision of the Deputy Collector, Land Reforms, on the question of title, shall not be treated to be an adjudication on respective right, title and interest of the parties. The parties shall be free to



approach the civil court of competent jurisdiction for
adjudication of their disputes.

(Chakradhari Sharan Singh, J)

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