

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1702 of 2016

Ashok Kumar Mishra, son of Late Rajeshwari Prasad Mishra, resident of village - Muradpur Hujara @ Kagazi Mohalla, P.O. - Baidrabad, P.S. District - Arwal.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate-Cum-Collector, Arwal.
3. The Sub-Divisional Magistrate, Arwal.
4. The Circle Officer, Anchal, Arwal.
5. The Executive Engineer, Local Area Engineering Organization, Works Division (Sthaniya Kshetra Abhiyantran Sangathan, Karya Pramandal), Rwal
6. Smt. Manju Kumari, wife of Sri Sanjay Singh, Resident of village - Baidrabad, P.O. - Baidrabad, P.S. District - Arwal.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Damodar Pd. Tiwary, Advocate Mr. Braj Bhushan Mishra, Advocate
For the Respondent/s	:	Mr. Avinash Kumar- Sc30 Mr. Irshad, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

4 15-05-2019 Heard learned counsel for the petitioner and the State.

2. The petitioner has challenged the validity of the order dated 04.12.2015 contained in Annexure-6 whereby the Collector, Arwal after remand by this Court in C.W.J.C. No. 10117 of 2013 has passed order that the petitioner has failed to produce any document to substantiate his claim for right, title and interest.

3. The Collector in the order has mentioned that



petitioner has relied upon T.S. No. 213/89-81/92, however, the judgment of the title suit is not binding on the State of Bihar as the State of Bihar was not party and the Jamabandi, which was standing in the name of the petitioner was cancelled in Jamabandi Cancellation Case No. 03/AC/2012. In the Survey Khatian, the land is mentioned as Thakurbari. In the new khatian it is mentioned as Anabad Bihar Sarkar. In the aforesaid, the Collector came to the conclusion that the land in question is public land of the State of Bihar.

4. Mr. Tiwary, learned counsel appearing on behalf of the petitioner submits that the competent civil court in T.S. No. 213/89-81/92 has already declared the title of the petitioner and as such the respondents were not justified in taking a different view from one adjudicated by the competent civil court in T.S. No. 213/89-81/92.

5. On behalf of the respondents, learned counsel submits that the claim of the petitioner is based on the T.S. No. 213/89-81/92, which is not binding on the State of Bihar, as the State has filed Title Suit No. 194 of 2013 for a declaration that decision in Anirudh Mishra & Ors. Vs. Kalavati Devi is not binding on State (T.S. No. 213/89-81/92), which is pending in the court of Sub-Judge-I, Jehanabad (Arwal). The dispute raised



by the respondents that the petitioner has got no right, title and interest and the petitioner is not in possession and land in question is a public land and community hall is situated on the public land.

6. This Court has passed order on 09.03.2016 to maintain status quo as existing today. The status quo is still continuing.

7. The controversy whether the State of Bihar is a necessary party or not the effect of non-joinder of necessary party in the suit has been raised by the respondents, but this Court is of the view that deciding the aforesaid issue in this proceeding will adversely affect either in pending Title Suit No. 194 of 2013, therefore, the Court refrain from passing any comment on the issue of non-joinder of necessary party in the earlier T.S. No. 213/89-81/92.

8. Considering the totality of the facts situation, the present writ application is disposed of with a direction to the court below to decide the pending Title Suit No. 194 of 2013 at the earliest.

9. In the meanwhile, status quo as existing on 09.03.2016 shall continue and the respondents cannot take any action on the basis of order contained in Annexure-6 when the



Title Suit filed by the respondents is pending consideration before the court below. Annexure-6 shall not be given its effect until final decision in Title Suit No. 194 of 2013.

10. With the aforesaid, the present writ application stands disposed of. The parties shall abide by the final outcome in the Title Suit No. 194 of 2013.

(Anil Kumar Upadhyay, J)

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