

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1909 of 2016

In
Civil Writ Jurisdiction Case No.16098 of 2012

-
1. Birendra Singh S/o Late Bhuvneshwar Singh Resident of Village Bishanpur, P.O. Bishanpur, P.S. Dandari, District Begusarai.
 2. Surendra Singh, Son of Late Bhuvneshwar Singh, Resident of Village Bishanpur, P.O. Bishanpur, P.S. Dandari, District Begusarai.
 3. Ram Pukar Singh, Son of Late Yugal Singh, Resident of Village Bishanpur, P.O. Bishanpur, P.S. Dandari, District Begusarai.
 4. Ram Sewak Singh, Son of Late Yugal Singh, Resident of Village Bishanpur, P.O. Bishanpur, P.S. Dandari, District Begusarai.
 5. Suggi Devi, Wife of Late Muralidhar Prasad Singh, Resident of Village Bishanpur, P.O. Bishanpur, P.S. Dandari, District Begusarai.
 6. Gopal Singh, S/o Kapildeo Singh, Resident of Village Bishanpur, P.O. Bishanpur, P.S. Dandari, District Begusarai.
 7. Anant Singh, Son of Late Rajendra Singh, Resident of Village Bishanpur, P.O. Bishanpur, P.S. Dandari, District Begusarai.
 8. Parma Nand Singh, S/o Late Rajeshwar Singh, Resident of Village Bishanpur, P.O. Bishanpur, P.S. Dandari, District Begusarai.
 9. Janardan Singh, Son of Late Natho Singh, Resident of Village Bishanpur, P.O. Bishanpur, P.S. Dandari, District Begusarai.
 10. Bhola Singh, Son of Late Banarsi Singh, Resident of Village Bishanpur, P.O. Bishanpur, P.S. Dandari, District Begusarai.

... .. Appellant/s

Versus

1. The State of Bihar.
 2. The District Magistrate cum Collector, Begusarai.
 3. The Deputy Collector, Land Reforms, Balia, Begusarai.
 4. The Circle Officer, Balia, District- Begusarai.
-Respondents 1st Set/ Respondents 1st Set.
5. Chunchun Mochi, S/o Sekho Mochi, R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.
 6. Chamrusada, S/o Somar Sadar, R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.
 7. Naresh Mochi, S/o Prabhu Mochi, R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.
 - 8(i) Tilo Ram
 - (ii) Manoj Ram
 - (iii) Krelal Ram
- All are sons of Late Magori Mochi (deceased respondent no.8), R/o village +Post- Bishanpur, P.S. Dandari, District- Begusarai.
9. Akal Mochi, S/o Sito Mochi, R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.
 10. Bishundeo Mochi, son of Bauku Mochi, R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.
 11. Ratan Devi, Wife of Vidya Rajak, R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.
 12. Arjun Mochi, Son of Sekho Mochi, R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.



13. Tiro Rajak, son of Fagu Rajak, R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai. (expunged)

14(i) Bambam Rajak

(ii) Bulbul Rajak

(iii) Pankaj Rajak

All are sons of Rajendra Rajak (deceased respondent no.14) R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.

15. Subak Rajak, son of Saukhi Rajak, R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.

16. Dukhraran Rajak, son of Hari Rajak, R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.

17. Ramchandra Mochi, son of Botan Mochi, R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.

18. Taro Paswan, son of Ram Bhaju Paswan, R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.

19. Jago Paswan, son of Ram Gulam Paswan, R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.

20. Lodhi Sada, son of Ramotar Sada, R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.

21. Badhu Sada, son of Shiv Ram Sada, R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.

22. Bidya Rajak, son of Ram Swaroop Rajak, R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.

23. Taro Rajak, son of Ramswaroop Rajak, R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.

24. Ram Balak Rajak, son of Ram Swaroop Rajak, R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.

25. Ram Bilash Mochi, son of Jai Mangal Mochi, R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.

26. Fulena Paswan, son of Rameshwar Paswan, R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.

27. Mahendra Rajak, son of Saukhi Rajak, R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.

28. Khattu Rajak, son of Ram Swaroop Rajak, R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.

29 (i) Dayanand Ram

(ii) Parmanand Ram

(iii) Rohit Ram

All are sons of Sudesh Mochi (deceased respondent no.29), R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.

30. Sri Narayan Mochi, son of Bodhan Mochi, R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.

31. Ghuran Mochi, son of Parmeshwar Mochi, R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.

32. Ram Khelawan Sada, son of Govind Sada, R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.

33. Dharmendra Sada, Son of Parmeshwar Sada (deceased respondent no.33), R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.

34. Manoj Sada, son of Lakhan Sada (deceased respondent no.34), R/o Village- Bishanpur, P.O.- Bishanpur, P.S. Dandari, District- Begusarai.

.....Respondents 2nd Set.... Respondents 2nd Set.



Appearance :

For the Appellant/s : Mr.Brisketu Sharan Pandey, Adv.
For the Respondent/s : Mr. Arun Kumar Bhagat, AC to AAG-12

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

Date : 02-01-2019

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Although this matter is posted for consideration of the office report on service of notice on the legal heirs proposed to be substituted in place of the deceased respondent nos.8, 11, 14, 29, 33 and 34 but having noted the inter-party contest, we are satisfied to record that this appeal does not require any indulgence for the opinion expressed by the learned Single Judge on the facts accompanying the appeal, suffers no infirmity warranting any indulgence. Having opined thus, we are of the view that there is no reason to postpone the outcome awaiting service of notice on the legal heirs of some of the respondents who have deceased in the meanwhile and whose order of settlement as endorsed by the Deputy Collector Land Reforms, Balia, Begusarai (hereinafter referred to as the 'DCLR') in the proceedings in question arising under the provisions of Bihar Land Disputes Resolution Act, 2009 (hereinafter referred to as 'the Act') with a consequential direction to the respondent authorities to act in pursuance of such settlement order,



aggrieved the appellants to question in the writ petition before the learned Single Judge.

For the purpose of record we deem it necessary to briefly discuss the issues which fell for consideration before the learned Single Judge and has resulted in the order impugned before us.

The private respondents invoked the provisions of 'the Act' for getting possession of their respective plots which were settled in their favour way back in 1988-89 by the competent authority in the Revenue and Land Reform Department. Since the possession was not forthcoming that a proceeding was initiated giving rise to Miscellaneous Case No.1 of 2009-10 and the learned 'DCLR' as the competent authority to consider such claim of the private respondents, by order dated 11.07.2012 accepted the claim to direct the authority concerned to hand over the possession of the respective plots to the private respondents. This order was put to challenge by the appellant-writ petitioners before the learned Single Judge through the writ petition in question but was rejected.

It is the claim of the appellant-writ petitioners that the *Jamabandi* of the plots in question which are the subject matter of dispute records their names and it is without taking



appropriate steps for cancellation of their *Jamabandi* that these very plots have been settled in favour of private respondents.

Mr. Brisketu Sharan Pandey, learned counsel appearing on behalf of appellant-writ petitioners argues to canvass that the *Jamabandi* was created in the name of the appellant-writ petitioners and they are also in possession of rent receipts. While making such submission, Mr. Pandey fairly accepts that despite such position the order of settlement which was sought to be implemented through the process of 'the Act' by the private respondents, issued way back in 1988-89, was never questioned by the appellant-writ petitioners before any forum at any stage. A defence is taken that the writ petitioners were not within the knowledge of any such order of settlement.

Be that as it may, the learned Single Judge while taking note of the fact that there was a settlement order in favour of private respondents by the competent authority which order of settlement issued in the year 1988-89 was never put to question by any one, before any competent forum and it is for implementing such settlement that the private respondents filed the miscellaneous case in question and the learned 'DCLR' by the order impugned in the writ petition has simply reminded the respondent authorities in the State Government of their



obligation to act in pursuance of such settlement order, found no infirmity in the directions to interfere therewith and recording thus, has dismissed the writ petition.

We have heard learned counsel for the parties and we have also perused the records and as we have recorded above that the settlement order issued by the competent authority in the State Government in the year 1988-89 in favour of the private respondents herein has continued to operate and has not been interfered with or questioned by the appellant-writ petitioners before any forum, the learned Single Judge has been right to observe that until such time that the settlement order is reversed by the competent forum, no infirmity can be found in the exercise of jurisdiction by the 'DCLR' to direct the concerned respondent authorities in the State Government to put the private respondents in possession of the land so settled in their favour.

In the undisputed circumstances discussed above we are not persuaded by the submissions advanced by Mr. Pandey to interfere with the order passed by the learned Single Judge for the situation as it stands today and until such time that the settlement order is interfered with by a competent forum, the appellant-writ petitioners can have no grievance. It is up to the



appellant-writ petitioners to take recourse to the proper remedy, if so advised, for espousing their claim but in the undisputed circumstances discussed above, we find no reason to interfere with the order of the learned Single Judge.

The appeal is dismissed with the observation above.

The interlocutory applications are disposed of.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Skpathak/Anjula

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.01.2019
Transmission Date	NA

