

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23933 of 2019

1. Bindeshwary Ray, son of Saryug Ray,
2. Sundeshwar Ray, son of Saryug Ray, both resident of village Khanpura, Ward No. 12, Post- Khanpur Pakadi, Khanpur Pakri, District- Vaishali, Pin Code 844115

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Collector, Vaishali.
3. Ramanand Paswan, son of Majhalu Paswan, resident of village- Sultanpur P.O.- Chaksi Kandar Thana and Anchal Bidupur, District- Vaishali
4. Manik Singh, son of Baleshwar Singh, resident of village- Mathura Tole Chak, P.O. Mathara Thana and Anchal Bidupur District- Vaishali
5. Lalit Ray, son of late Bihari Ray,
6. Manohar Rai, son of Lalit Ray, both resident of village- Khajbati, P.O.- Chaksikandar Thana and Anchal- Bidupur, District- Vaishali

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ratan Kumar Sinha, Advocate
For the Respondent/s : Mr. Subash Chandra Yadav, GP-15

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 03-12-2019

Heard learned counsel for the petitioners and learned
GP 15 for the State.

2. The petitioners have moved the Court for the
following relief:

*“That the present application is being file for
quashing the order dated 04.08.1995 passed by
the Collector, Vaishali, in R. Case No.29/95-96
(as contained in Annexure-2) whereby and*



whereunder the learned Collector was pleased to allow the petition under Section 32 of the Consolidation Act against the Father of the plaintiff of T.S. No.73/2019.”

3. The brief facts of the case is that the respondent no. 5 executed a sale deed in favour of the respondent no. 4 on 08.04.1994. Thereafter, the respondent no. 4 executed a sale deed for the land in question, in favour of the petitioners on 05.05.1995. The respondent no. 3 filed an application under Section 32 of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956, alleging that the sale deed dated 08.04.1994 was done without seeking permission. The Collector, Vaishali, by order dated 04.08.1995 in Case No. R-29/95-96 declared the sale deed in favour of the respondent no. 4 to be null and void and also imposed cost of rupees two hundred. Thereafter, respondent no.6, who is son of the respondent no. 5, filed Title Suit No.73 of 2019 before the Sub Judge, Vaishali at Hajipur, against the petitioners and others for declaration of his title and possession besides ancillary reliefs, which is still pending.

4. Learned counsel for the petitioners submitted that in the proceeding before the Collector, Vaishali, they were not made party despite the sale deed having been executed in their favour much prior to institution of the proceeding. It was further



submitted that the petitioners were unaware of the order impugned till they got notice in the Title Suit. Learned counsel submitted that the order passed by the Collector without hearing the petitioners itself is a nullity in the eyes of law and requires interference.

5. Learned counsel for the State submitted that as of now, there is no adverse order with regard to the sale deed in favour of the petitioners. Thus, it was submitted that ultimately the matter has to be sorted out before the Civil Court and once Title Suit No.73 of 2019 is already pending, in which the petitioners are also party, they should pursue the same.

6. After considering the matter, the Court finds substance in the submissions of learned counsel for the State. Now, when there is a substantive Title Suit pending between the parties and, that too, specifically for seeking relief of declaration of title and possession, all points available to the petitioners can very well be placed before the Court for complete adjudication in the matter.

7. In view thereof, the writ petition stands disposed off with liberty to the petitioners to raise all the points available to them, including those taken in the present writ application, which shall be considered on their own merit, in accordance



with law, by the Court below, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J)

J. Alam/-

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