

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.388 of 2019
In
Civil Writ Jurisdiction Case No.9307 of 2015

1. Parvati Devi W/o Ajay Kumar resident of village Shaidpur Dhawa, P.O. Arwal , District Arwal.
2. Bijendra Singh S/o Late Dawarika Singh resident of village Shaidpur Dhawa, P.O. Arwal , District Arwal.
3. Sudarshan Singh S/o Sitaram Singh resident of village Shaidpur Dhawa, P.O. Arwal , District Arwal.
4. Shvi Bhachan Kumar S/o Late Prasad Singh resident of village Shaidpur Dhawa, P.O. Arwal , District Arwal.
5. Prabhu Dayal Singh S/o Late Bisundeo Singh resident of village Shaidpur Dhawa, P.O. Arwal , District Arwal.
6. Lakshminia Devi W/o Basawan Bhagat resident of village Shaidpur Dhawa, P.O. Arwal , District Arwal.
7. Ram Pravesh Singh S/o Late Rup Yadav resident of village Shaidpur Dhawa, P.O. Arwal , District Arwal.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Land Revenue and Reforms Department, Govt. of Bihar, Patna
2. The District Magistrate, Arwal
3. The Deputy Collector Land Reforms, Arwal
4. The Circle Officer, Arwal

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Uday Narayan Singh
For the Respondent/s : Mr.Md. Khurshid Alam (Aag12)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

5 13-01-2020 The appellants have impugned the order dated



21.02.2019, titled as *Parvati Devi & Ors. Vs. The State of Bihar & Ors*, which is reproduced in toto, as under:

“Following is the relief, which the petitioners is seeking:-

(i) For issuance of a writ in the nature of a writ of mandamus commanding the respondent authorities to restore the jamabandis in name of the petitioners as their respective jamabandis has been cancelled without following prescribed procedures behind the back of these petitioners about which the petitioners came to know only when they approached the concerned Circle Officer to deposit revenue pertaining to their lands situated in village-Saidpur Dhawa, Thana No. 23, Khata No. 74, Plot No. 514.”

Learned counsel for the petitioners has submitted that the petitioners are in possession over the lands, in question, since 1943 by way of a Hukumnama, issued by the then Zamindar and have been continuously paying revenue to the Government, State of Bihar and receiving the rent receipts. It is also his case that the Circle Officer, Arwal, had opened separate Jamabandi in the name of these petitioners.

Learned counsel for the petitioners has also contended that even today, the petitioners are clueless whether their Jamabandi has been cancelled or not. He, however, admits that at the present, the petitioners are not in possession over the lands, in question, and a civil court's building is being constructed over the said land by taking forcible possession from the petitioners.



Whether the petitioners have title over the land, in question, based on a Hukumnama, which is said to have been issued in the year 1943 and whether they were in possession over the lands, being questions of title and possession, cannot go into a proceeding under Article 226 of the Constitution of India.

Learned counsel for the petitioners has argued that final decision has yet not been taken by the Additional Collector, Arwal, on the point of cancellation of Jamabandi. I need not comment even upon that. The Additional Collector will be at liberty to pass appropriate orders, if any proceeding is pending before him, in accordance with law.

So far as the petitioners' claim of their title and forcible dispossession, in respect of the said land, is concerned, it goes without saying that they have liberty to approach a civil court of competent jurisdiction for adjudication of their claim.

Any observation made in the present order shall not come in way of the petitioners, questioning any other order passed by any authority, which is(are) not within their knowledge, in accordance with law.

The application stands disposed of with the aforesaid observation.”

We do not find any infirmity therein. More so when the dispute is of civil nature and disputed questions of fact are involved, which cannot be adjudicated in a writ jurisdiction. Issue of title is in question.

As such we dispose of the present appeal reserving



liberty, as already granted by the writ court, to the appellants to approach the Civil Court for adjudication of disputes.

All issues are left open.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

sujit/-

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