

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.266 of 2020

In
Civil Writ Jurisdiction Case No.647 of 2020

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1. Amina Khatoon W/o Late Md. Gaffar @ Abdul Gaffar, Resident of village- Bauram, Via-Viraul, P.S.- Jamalpur, District- Darbhanga.
 2. Md. Naim S/o Late Md. Gaffar @ Abdul Gaffar. Resident of village- Bauram, Via-Viraul, P.S.- Jamalpur, District- Darbhanga.
 3. Najim S/o Late Md. Gaffar @ Abdul Gaffar, Resident of village- Bauram, Via-Viraul, P.S.- Jamalpur, District- Darbhanga.
 4. Hidayat, S/o Late Md. Gaffar @ Abdul Gaffar. Resident of village- Bauram, Via-Viraul, P.S.- Jamalpur, District- Darbhanga.
 5. Eliyas, S/o Late Md. Gaffar @ Abdul Gaffar. Resident of village- Bauram, Via-Viraul, P.S.- Jamalpur, District- Darbhanga.
 6. Samin S/o Late Md. Gaffar @ Abdul Gaffar. Resident of village- Bauram, Via-Viraul, P.S.- Jamalpur, District- Darbhanga.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Collector, Darbhanga.
3. The Officiating Minister, District Bhoodan Yogn Office, at Collectorate, Darbhanga.
4. The Circle Officer, Gauda Bauram, District-Darbhangha.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Ms. Rashmi Jha, Adv Ms. Vagisha Pragya Vacanavi, Adv, Mr. Ravish Mishra, Adv & Mr. Sanjeev Kumar Shrivastava, Adv
For the Respondent/s	:	Mr.Lalit Kishore (AG)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 02-12-2020



Heard learned counsel for the parties.

This letters patent appeal has been filed for setting aside order dated 13.7.2020 passed in C.W.J.C No. 647 of 2020 passed by learned Single Judge of this Hon'ble Court dismissing the writ petition.

The prayer of the appellants in the writ petition was as follows:-

“That this is an application for issuance of appropriate writ/writs, direction/directions commanding the respondents particularly the respondent no. 4 to hand over the delivery of possession to the petitioner the land in question which he got through the Bihar Bhodan Yagna committee having area of 15 kattas of land and for the direction to the respondent no. 4 to act according to his earlier order vide letter bearing no. 640 dated 10.07.2018 whereby he has to allot the land in question having area 15 kattas of land to the petitioner and or issuance of consequential writ restraining the respondent no. 2 and 4 not to handover the land in question for construction of hostel on the land in question till the disposal of the present writ application and or issuance of any other writ or under the facts and circumstances of the case.”

Briefly stated the facts of the case is that land measuring 1 Bigha 17 Katthas appertaining to old plot no.451, old khata no.415 of Mauja Bauram was donated by Maharaj Darbhanga to Bhoodan Yagna Committee, out of which three persons including the original writ petitioner were granted different areas in said plot under Section 14 of the Act who are



(i) Jagdev Mallah-1 bigha-Plot No. 451/1 (ii) Sheikh Gaffar(original petitioner)-15 katthas-Plot No. 452/2 and (iii) Sheikh Gaffur-2 katthas on 25.01.1956. The lands donated were confirmed in revenue case 249/F under Section 11 and 12 of the Act on 24.08.1957. Plot No. 451 was a huge area measuring 15 acres and 32 decimals which was subsequently divided into 17 new plots during revisional survey.

Area of Plot no. 451/2 after revisional survey comprises of 3 plots being (i) Khata No.418 Plot No.1069 area of 65 decimals, (ii) khata no.1419 plot no.1056 area of 35 decimals, and (iii) Plot No.1055/6181 area of 9 decimals.

In the revisional survey, land measuring 35 decimals appertaining to Khata No. 1419 and Plot No. 1056 stands recorded in the name of Anabad Bihar Sarkar (Gairmajarua) and 65 decimals of land appertaining to Plot No. 1069 stands recorded in the name of petitioner.

The land recorded in the revisional survey in the name of State of Bihar appertaining to Khata No. 1419(new) Plot No. 1056 (new) measuring 35 Decimals, was given by Government for construction of 50 rooms minority welfare hostel and same was demarcated and handed over to the construction contractor upon which construction of hostel is being made.



As far as land measuring 65 decimals of Khata No. 418(new), Plot No. 1069 (new) is concerned dispute is going on with regard to title and possession over the land between petitioner and respondent no. 5 and an application was filed under Bihar State Land Dispute Redressal Forum, before the DCLR and same was dismissed by DCLR in Case No. 54 of 2018-19 vide order dated 21.12.2019 observing that complicated question of title and possession was involved and for which parties were relegated to Civil Court and Title Suit No. 17 of 2020 is pending before Sub-Judge, Biraul, between petitioner and respondent no. 5 with respect to said land.

There is serious dispute with respect to title and possession over both the plots i.e. Plot No. 1069 between petitioner and respondent no. 5 and Plot No. 1056 is recorded in the name of State of Bihar in revisional survey against which petitioner has not filed any objection and there is presumption of correctness of record of rights, until rebutted. The recent mutation order of Plot No. 1056 (new) and 1069 (new) in favour of petitioner in the year 2018 does not confer any title of land in petitioner.

Disputes of title and possession cannot be decided in writ proceeding and prayer of writ petitioner for recovery of



possession and declaration of his right and title over Plot No. 1056 and Plot No. 1069 cannot be granted by a writ court.

The learned Single Judge has observed that serious disputes of title and possession can only be adjudicated before a Civil Court of competent jurisdiction and dismissed the writ petition of the petitioner.

This Court does not find any error, irregularity or infirmity in the order passed by learned Single Judge and accordingly, the letters patent appeal is dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
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