

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1281 of 2018

In

Civil Writ Jurisdiction Case No.5162 of 2017

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1. Satya Vijay Prasad Singh, Son of Late Ravaneshwar Prasad Singh @ Rameshwar Prasad Singh.
 2. Prakash Chandra Singh, Son of Shri Satya Vijay Prasad Singh.
- Both are Resident of Village-Korma Bhagwan, P.s.-Aurangabad, District-Aurangabad.

... .. Appellant/s

Versus

1. The State Of Bihar through the Collector of the District- Aurangabad.
 2. The Superintendent of Police, Aurangabad.
 3. Thee Sub-Divisional Officer, Aurangabad.
 4. The Circle Officer, Circle-Aurangabad.
 5. Krishna Vijay Prasad Singh, Son of Late Ravaneshwar Prasad Singh Resident of Village-Karma Bhagwan, P.S.-Aurangabad, District-Aurangabad.
 6. Vikash Chandra.
 7. Avinash Chandra.
- Both Sons of Satya Vijay Prasad Singh, Resident of Village-Karma Bhagwan, P.S. and Distrist-Aurangabad,

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Dhananjay Kumar

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)

3 14-01-2020 Having heard learned counsel for the appellants, we
do not find any reason sufficient enough to interfere with the



impugned order dated 09.08.2018 passed by the learned single Judge in CWJC No. 5162 of 2017, titled as *Satya Vijay Prasad Singh & Anr. Vs. The State of Bihar & Ors.*, which is reproduced in toto as under:

Heard learned counsel for the petitioner and the learned counsel for the State.

The petitioner filed this writ petition for a direction to the respondents to get the purchased land of the petitioner measured.

Learned counsel for the petitioner submits that the petitioner purchased the land and filed petition for demarcation of the land but his own brother objected such demarcation. From perusal of Annexure-5 itself, it appears that the vendor of the petitioner and father of the petitioner are relatives. Some portions of the aforesaid land were sold by the vendors of the land in favour of brother and father of the petitioner. On the basis of such sale, the entire area including the land purchased by the petitioner are amalgamated with each other and fencing was erected on such own brother of the petitioner objected such demarcation. A partition suit is also pending between the parties and there involves question of title.

Having considered the facts aforesaid and the facts that a partition suit is also pending between the parties, the aggrieved party may move the court for the relief sought from the Revenue authority and it does not appear to be



appropriate to give any direction to demarcate the land of the petitioner particularly when the matter is pending before the Civil Court.

I do not find any merit in this writ petition and accordingly, the same is dismissed.”

It is not shown that as to how the finding, reproduced supra, is perverse or not based on correct and complete appreciation of materials on record.

Undisputedly, a partition suit *inter se* the private parties and the writ petitioners/appellants herein is pending before the Civil Court.

Learned counsel for the appellants emphatically argues that the said suit pertains to the ancestral property and not the property subject matter of the writ petition. However, he also admits that at this point of time, the property has become subject matter of the said partition suit.

Hence, all the more reason for a writ court not to entertain the petition filed by the petitioners or for the appellate court not to deal with the subject matter of the writ petition.

In any event, we find that there is a proper mechanism in place by virtue of Bihar Land Disputes Resolution Act, 2009, the provisions of which, the appellants can invoke seeking demarcation of the land, which relief, the petitioners actually



prayed for in the writ petition.

Accordingly, the appeal stands disposed of.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

sujit/-

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