

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 8082 of 2020

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Anil Prasad Yadav (male), aged about 41 years, Son of Rajendra Prasad Yadav, resident of Village - Murkatawa, P.O. Banshgopal, Awaman, Rajauli, District-Nawada

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Government of Bihar, Patna.
2. The Principal Secretary, Road Construction Department, Government of Bihar, Patna.
3. The Engineer-In-Chief, Rural Works Department, Government of Bihar, Patna.
4. The Executive Engineer, Rural Works Department, Works Division, Rajaoili, Nawadah.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ray Saurabh Nath, Advocate
For the State : Mr. Dinesh Maharaj, AC to AAG 11

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 12-01-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Ray Saurabh Nath, learned counsel for the petitioner and Mr. Dinesh Maharaj, learned Assistant Counsel to Additional Advocate General 11 for the State.

3. The petitioner has moved the Court for the following reliefs:

“That this is an application for issuance of directions to the Respondents for immediate



stoppage of construction of rural road over the ancestral land of the petitioner in the Mukhya Mantri Gram Sampark Yojna-(MMGSY) situated in the village Murkatawa, PO Banshgopal, Awaman, Rajauli, District-Nawadah.”

4. Only when the Court directed the petitioner to bring on record all documents in support of his claim to the land in question, certain documents and copies of orders have been brought on record by way of a supplementary affidavit filed on behalf of the petitioner. One of the main documents is a so-called order dated 15.11.1982 passed in Suit No. 3907 of 1976 under Section 106 of the Bihar Tenancy Act, 1885 (hereinafter referred to as the “BT Act”) by the Revenue Officer, Nawada.

5. On this, the State has taken a categorical stand that the said document is a forged document. The petitioner in his rejoinder, with regard to such stand that the document is fabricated, has simply stated that the authorities cannot change their stand. Further, learned counsel for the petitioner has stated that mutation has been done and rent receipts have been issued to the petitioner. It was submitted that once the authorities have mutated the land in question in favour of the petitioner/his ancestors and rent receipts have been granted, the only recourse left to the State authorities is to file a suit for any change or



cancellation of such mutation.

6. On a direct query of the Court to learned counsel for the petitioner as to how, when the very basis of his claim, viz. order dated 15.11.1982, has been disputed by the authorities as being a forged document, any subsequent order based on the same would create any right in favour of the petitioner as law is well-settled that fraud vitiates all action taken based on it, learned counsel was unable to meet the query.

7. In the present case, there is no specific denial by the petitioner that the order dated 15.11.1982 is not fabricated. Thus, when the authorities on oath in an affidavit have taken this categorical stand about the document being fabricated, meaning thereby that no such order was ever passed, clearly it would become doubtful, implying that fraud may have been committed. As the very basis of claim over the land in question by the petitioner is the order dated 15.11.1982 passed in Suit No. 3907 of 1976 under Section 106 of the BT Act, has been found to be a fabricated document by the authorities, with no specific denial in rejoinder by the petitioner, along with the submission of learned counsel for the State, upon instructions, that there is no trace of any such order in the official records, the writ petition clearly is without merit.



8. The order dated 15.11.1982 being the sole basis of claim by the petitioner to the ownership of the land in question, the Court, in its extraordinary and prerogative writ jurisdiction, is of the considered opinion that no interference is called for. If at all the petitioner is convinced that his claim is *bona fide* and his documents are genuine, the only recourse before him is to move before the Civil Court of competent jurisdiction for a declaration that the said documents are genuine.

9. For reasons aforesaid, this writ petition stands dismissed.

10. The Court would indicate that it has not expressed any opinion on the merits of the matter and observations made herein are only for the purpose of this writ petition. However, it is also noted that despite a categorical statement in the supplementary counter affidavit that the order dated 15.11.1982 is fabricated, there has been no denial of the same by the petitioner in his rejoinder, which is a major reason why this Court has been persuaded not to interfere in the matter as a direct allegation of fraud stands unrebutted by the petitioner.

11. It is clarified that it shall be open to the petitioner to move before the appropriate forum, however not under



Article 226 of the Constitution of India, with regard to getting his right and title, if any, declared over the land in question, in accordance with law, which shall be considered on its own merits without being prejudiced by the present order.

(Ahsanuddin Amanullah, J)

Anjani/-

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