

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1313 of 2013

In
Civil Writ Jurisdiction Case No.3841 of 2012

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1. Chandradeep Rai and Ors Son Of Late Janak Rai Resident Of Village - Changarh, P.S. Kankarbagh, District - Patna
 2. Laxmi Narayan Rai Son Of Late Janak Rai Resident Of Village - Changarh, P.S. Kankarbagh, District - Patna
 3. Girija Rai Son Of Late Janak Rai Resident Of Village - Changarh, P.S. Kankarbagh, District - Patna
 4. Motilal Rai Son Of Late Janak Rai Resident Of Village - Changarh, P.S. Kankarbagh, District - Patna
 5. Mofil Rai Son Of Late Janak Rai Resident Of Village - Changarh, P.S. Kankarbagh, District - Patna

... .. Appellant/s

Versus

1. The State of Bihar.
2. Commissioner, Patna Division, Patna
3. District Magistrate, Patna
4. Sub Divisional Officer, Sadar, Patna
5. Deputy Collector, Land Reforms, Patna
6. Circle Officer, Phulwarisharif, Patna
7. Land Acquisition Officer, Patna
8. Officer - In - Charge, Ram Krishna Nagar Police Station, Patna
9. Devendra Singh Son Of Late Muneshwar Rai Resident Of Village - Changarh, P.S. Kankarbagh, District - Patna

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Mrigank Mouli, Sr. Adv.
For the State	:	Ms. Deepika Sharma
For the Resp. No.9	:	Mr. Neeraj Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE NAWNEET KUMAR

PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 15-11-2022



Heard Mr. Mrigank Mouli, learned senior advocate for the appellants and Mr. Neeraj Kumar for the respondent no.9. The State is represented by Ms. Deepika Sharma, learned advocate.

The judgment and order dated 21.03.2013 passed in CWJC No. 3841 of 2012 is under challenge.

The respondent no.9 had preferred a writ petition, challenging the power of the Commissioner as also his findings when he had cancelled the Jamabandi running in the name of the father of the respondent no.9 since 1956-57 with respect to a particular plot of land in the district of Patna.

The sole contention of the writ petitioner (respondent no.9 before the learned Single Judge) was that the Commissioner under the Bihar Land Dispute Resolution Act, 2010 exceeded his jurisdiction and delved on the issues of title, which he could not have done.

There is no dispute between the parties viz. the appellant and the respondent that the question of title cannot be determined by a quasi judicial authority under the Land Dispute Resolution Act, 2009 and perforce the parties for the



aforesaid purpose are required to put forth their claim before a competent civil court exercising jurisdiction.

The learned Single Judge while setting aside the order of the Commissioner, as prayed for by the respondent no.9/writ petitioner, observed with refrain that in the event of the respondents therein (appellants herein) having produced more than a couple of genealogical tables with different entries as opposed to the genealogical table preferred by the respondent no.9, a case was made out for referring the matter to the appropriate civil court for the resolution of the dispute regarding title.

Mr. Mouli, learned senior advocate while assailing the order has submitted that the folly committed by the Commissioner was repeated by the learned Single Judge and the same disputed issues of facts were attempted to be resolved and findings recorded. He has further submitted that though the end result of the order passed by the learned Single Judge may not be faulted with in strict sense of the term as the parties have been directed to wrest their respective claims before the competent court of civil jurisdiction but while



delivering the judgment, the order of the Commissioner was quashed, restoring the orders passed by the other authorities, though the original order directed for settlement of the respective claims of the parties before the competent civil court.

The fears of the appellants, though may appear to be atavistic, are somewhat genuine. There are certain findings on facts which repels the contention of the appellants herein. If that is allowed to remain untrammelled, there could be a chance of the civil court going on a vertiginous path, may advert to such findings of fact which was not required to be given either by the Commissioner or the learned Single Judge.

Mr. Neeraj Kumar, learned counsel for the respondent no.9, as noted above, does not dispute the aforementioned proposition advanced by Mr. Mouli and has also submitted that according to his information, the parties have approached the civil court for the needful.

Be that as it may, after hearing the arguments of the learned counsel for the parties and going through the judgment and order of the learned Single Judge which has been assailed



in the present appeal, we declare that if the doors of the civil courts are knocked by the parties for determination of their rights and title, the findings of the learned Single Judge would not be looked into and the issue shall be decided afresh on the basis of materials placed before it. This declaration, to our mind, would leave both the appellants and the respondent, satisfied.

With the aforementioned clarification in the order of the learned Single Judge, the appeal stands disposed of.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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