

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2751 of 2018

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Pankaj Kumar Bharti Son of Late Brijnandan Singh, Resident of Village-Khaira, Police Station- Khaira, District- Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Jamui.
3. The Deputy Collector, Land Reforms, Jamui.
4. The Circle Officer, Khaira.
5. Vikash Singh, S/o Late Sitaram Singh, R/o Vill-Khaira, P.S. Khaira, Dist-Jamui-811317.
6. Putul Devi, W/o Hardhar Raut @ Haldhar Raut, R/o Vill-Khaira, P.S. Khaira, Dist-Jamui.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pushkar Narain Shahi, Sr. Adv. Mr. Nirmal Kumar, Adv. Mr. Shivam, Adv.
For the Respondent No. 5 :		Mr. J.S. Arora, Sr. Adv. Mr. Manoj Kumar, Adv. Mr. Kushagra Kush, Adv.
For the Respondent No. 6 :		Mr. Raj Kumar, Adv. Mr. Vijay Kumar, Adv.
For the State	:	Mr. Raj Kishore Roy, GP-18 Mr. Perna Anand, (AC to GP-18)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT
Date : 27-09-2023

Heard learned senior counsel for the petitioner,
learned counsels for the private respondents and learned counsel
for the State.

2. The present writ application has been filed for
directing the respondents to issue rent receipts in the name of
the petitioner in the light of the order dated 05.12.2015 passed
by the Bihar Land Tribunal, Patna by which it was directed to
the respondents to mutate the name of the petitioner without

disturbing the order of mutation and *jamabandi* in the name of the petitioner with regard to 20 decimal of land bearing Plot No. 2348, Khata No. 256, containing Area 20 decimal which are still in the possession of the petitioner and the rent receipts were issued to the petitioner regularly till year 2016-17, on the basis of the said compromise decree and also directed respondents not to interfere with the right title and possession of the petitioner on the said land.

3. Both learned senior counsels for the petitioner and respondent no. 5 after some argument and with a view to cut sort the matter, agreed that the petitioner and the respondent no. 5 belongs to the same common ancestors and in the family, compromise took place by virtue of Title Suit No. 41 of 1989.

4. In the Court of Sub Judge- 1st, Jamui, District-Munger, both parties admits that the dispute at present for which the litigation runs from the Court of the Circle Officer, Khaira up to this Court is the land appertaining to Plot No. 2348 bearing Khata No. 256 about which the claim of the petitioner is that 11 ½ decimal and 12 decimal, total 23 ½ decimal had been purchased in the name of the petitioner's mother and the said 23 ½ decimal land belongs to the petitioner's mother as separate land.

5. It has also been submitted by the senior counsel for the petitioner that 20 decimal of the same plot has been purchased in the name of another lady member of the family, namely, Girish Kumari.

6. It transpires to this Court, after going through the decree passed in original suit *i.e.* Annexure- A to the counter-affidavit filed by the private respondent no. 5 that the said Plot No. 2348 bearing Khata No. 256, Area 11 ½ decimal, 20 decimal and 12 decimal, total 43 ½ decimal was subject to partition as kept in Schedule- 3 of the plaint.

7. From the party position of the decree, it also transpires to this Court that the petitioner alongwith his father & mother were plaintiffs in the partition suit being plaintiff nos. 1, 2 & 3, meaning thereby, it was well within the knowledge of them that the properties which were purchased in the individual name of the mother of the petitioner, as well as in the name of Girish Kumari were thrown into joint stock of the family.

8. It also transpires from Schedule- 1 that the land which was allotted to plaintiff nos. 1, 2 & 3 (present petitioner's family), share is only 20 decimal of the land of Plot No. 2348 bearing Khata No. 256. From Schedule- 5, it transpires that Plot No. 2348, Area 29 decimal with its entry at two places, meaning

thereby, Plot No. 2348 bearing Khata No. 256, total area 58 decimals have been allotted to the share of defendant nos. 7 to 11 (presently in the writ petition as private respondent no. 5). It is very clear to this Court that when in the joint stock, only $43 \frac{1}{2}$ decimal of land appertaining to Plot No. 2348 bearing Khata No. 256 is available, then allotment of 20 decimal in favour of the petitioner and allotment of 58 decimal in favour of the respondent no. 5 is basically an impossible state of affair in this regard.

9. Learned senior counsel for the respondent no. 5 admits that the actual land allotted to the respondent no. 5 in Schedule- 5, appertaining to Plot No. 2348 bearing Khata No. 256 is actually $23 \frac{1}{2}$ decimal only. The double entry of Plot No. 2348 bearing Khata No. 256, Area 29 decimal is basically a mistake. Senior counsel also admits that actually, it must not be 29 decimal rather it ought to be $23 \frac{1}{2}$ decimal only. Senior counsel further submits that by virtue of filing a supplementary counter-affidavit, this situation has been categorically admitted.

10. In this view of the matter, particularly, when in the joint family, total area of Plot No. 2348 is $43 \frac{1}{2}$ decimal and after partition, 20 decimal goes to the petitioner's side and $23 \frac{1}{2}$ decimal goes to the private respondent's side and after this

acceptance, there are no dispute left between the parties. As such, this Court directs the Circle Officer, Khaira to make entry the name of the petitioner for 20 decimal of land in his favour and 23 ½ decimal in favour of the respondent no. 5 (or any person through him), appertaining to Plot No. 2348 bearing Khata No. 256, Mauza- Khaira, District- Jamui and after clarifying this matter, both the parties admits that for the said plot, there is absolutely no dispute now.

11. It is directed to be ratified/ modified the revenue record in the light of the observation made in the present case.

12. All the other orders passed by any Revenue Authority(ies) relating to the said land of Plot No. 2348 bearing Khata No. 256, Mauza- Khaira, District- Jamui relating to the present parties have been declared as inoperative.

13. In this view of the matter, the present writ application is hereby disposed of.

(Dr. Anshuman, J.)

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AFR/NAFR	NAFR
CAV DATE	NA
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Transmission Date	NA