

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.917 of 2023

1. Rajesh Ram Son of Late Panchanand Ram @ Panchanan Ram, Resident of Village Chilmil, Mungeriganj, Turha Tola, Ward No. 32, P.S. Nagar, District Begusarai.
2. Munna Kumar Son of Late Panchanand Ram @ Panchanan Ram, Resident of Village Chilmil, Mungeriganj, Turha Tola, Ward No. 32, P.S. Nagar, District Begusarai.
3. Sonu Kumar Son of Late Panchanand Ram @ Panchanan Ram, Resident of Village Chilmil, Mungeriganj, Turha Tola, Ward No. 32, P.S. Nagar, District Begusarai.
4. Dinesh Kumar Son of Late Panchanand Ram @ Panchanan Ram, Resident of Village Chilmil, Mungeriganj, Turha Tola, Ward No. 32, P.S. Nagar, District Begusarai.
5. Bharat Kumar Son of Late Panchanand Ram @ Panchanan Ram, Resident of Village Chilmil, Mungeriganj, Turha Tola, Ward No. 32, P.S. Nagar, District Begusarai.
6. Pradip Kumar Son of Late Panchanand Ram @ Panchanan Ram, Resident of Village Chilmil, Mungeriganj, Turha Tola, Ward No. 32, P.S. Nagar, District Begusarai.
7. Dharamveer Kumar @ Dharamveer Ram Son of Late Panchanand Ram @ Panchanan Ram, Resident of Village Chilmil, Mungeriganj, Turha Tola, Ward No. 32, P.S. Nagar, District Begusarai.
8. Shatrughan Ram Son of Late Panchanand Ram @ Panchanan Ram, Resident of Village Chilmil, Mungeriganj, Turha Tola, Ward No. 32, P.S. Nagar, District Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
3. The District Magistrate-cum-Collector, Begusarai.
4. The Addl. Collector, Begusarai.
5. The Sub-Divisional Officer, Begusarai.
6. The Land Acquisition Officer, Begusarai.
7. The Block Development Officer, Block Sadar, District- Begusarai.
8. The Circle Officer, Block Sadar, District- Begusarai.
9. The Circle Inspector-cum-Halka Karamchari, namely, Kaushlendra Singh, Block Sadar, District- Begusarai.

... .. Respondents 1st Set.

10. Vyomkesh Bharduwaj, Son of Late Arbind Kumar Singh, Resident of Village Chhitnaur Kothi, Sarvoday Nagar, P.S. and District Begusarai.



11. Rajiv Kumar Singh Son of Late Ramsagar Singh, Resident of Lohia Nagar, P.S. Nagar, District Begusarai.
12. Krishna Kumar Singh Son of Late Sadanand Singh, Resident of Thatheri Gali, Muneriganj, P.S. Begusarai, District Begusarai.

... .. Respondents 2nd Set.

Appearance :

For the Petitioner/s	:	Mr. Shashi Shekhar Dwivedi, Sr. Adv.
	:	Mr. Ajit Kumar Singh, Adv.
For the State	:	Mr. Sajid Salim Khan, SC-25.
	:	Mr. Wasi Ahmad Khan, AC to SC-25.
For the Res. Nos.10 to 12:	:	Mr. Ansul, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 21-08-2023

Heard Mr. Shashi Shekhar Dwivedi, learned Senior Counsel with Mr. Ajit Kumar Singh, learned counsel for the petitioners, Mr. Sajid Salim Khan, learned SC-25 for the State and Mr. Ansul, learned counsel for the private respondent nos.10 to 12.

2. Vide orders dated 25.07.2023, 01.08.2023 & 07.08.2023, the arguments of learned counsel for the petitioners, State-respondent and the private respondent nos.10 to 12 and reply of petitioners have been completed. Today this case has fixed for judgment.

3. Upon going through the pleadings, it appears to this Court that the issues involved in the present writ petition is that:- whether the publication of notice in daily newspaper dated 07.12.2022 with regard to 60.5 decimal of land situated under Thana No.355, Mauja Panhals, Khata No.14, Plot No.553 for



construction of the building of Lohianagar Sahayak Police Station and residential buildings under the Bihar State Raiyati Land Lease Policy, 2014 followed by creation of lease between State and private respondent nos.10 to 12, followed by payment to the private respondent nos.10 to 12 are in accordance with law or not ?

4. Learned senior counsel for the petitioners has initially prayed for one relief in the writ petition but subsequently he has sought two more reliefs. In the first relief, he has challenged the advertisement made in the daily newspaper and subsequently, by way of filing Interlocutory Application No.01 of 2023, prayer for quashing the perpetual lease dated 25.01.2023 executed under the Bihar State Raiyati Land Lease Policy, 2014 between State and private respondent nos.10 to 12 and has also challenged the inquiry report dated 06.01.2023 sent by the Circle Officer, Sadar, Begusarai to the District Land Acquisition Officer, Begusarai by way of Interlocutory Application No.01 of 2023 which was allowed vide order dated 25.07.2023.

5. The case of petitioners is based on two registered sale deeds dated 28.09.1946 and 04.11.1948 followed by a deed of ratification (*Titirnama*) dated 15.12.1948.



6. Learned senior counsel for the petitioners submits that as soon as the publication of the said advertisement dated 07.12.2022 had been made in the daily newspaper, the petitioners have filed the objection and the said objection was decided against the petitioners granting opportunity of hearing to them. In the said objection, the claim of petitioners have been rejected. He further submits that by virtue of a ratification deed, the wrongs done in two sale deeds had been ratified. He has raised contention that the surroundings of the lands mentioned in ratification deed are correct. He further submits that by virtue of their entitlement, the grand-father of petitioners and after his death, father of the petitioners and then the petitioners are continuously coming in the peaceful possession over the land. Learned counsel for the petitioners further raised objection that Clause 5 (घ) the Bihar State Raiyati Land Lease Policy, 2014 clearly states that “सुचीबद्ध भूमि /स्थल के स्वत्व एवं प्रकृति की सूचना जिला समाहर्ता से प्राप्त की जाएगी । जिला समाहर्ता भूमि /स्थल की विधिवत जांच कराकर संतुष्ट हो लेंगे कि भूमि विवादग्रस्त न हो एवं वह स्वत्वधारियों के पूर्ण स्वामित्व एवं कब्जे में हो ।” According to him, there are litigations going on the said plot. He further submits that the total area of the land is 2 Bigha, 10 Katha and 6 Dhur which was recorded in the name of Murat Ram being the Khatiyani Raiyat. Jamabandi



was also created in the name of Murat Ram, and his son Ramsharan Ram @ Kallar Ram has sold the said plot in favour of Ramdeo Ram and the Jamabandi is still continuing in the name of Ramdeo Ram bearing Jamabandi No.416. He submits that one Chhotu Ram who comes from the branch of Ramsharan Ram had started creating disturbance to the heirs of Ramdeo Ram due to which the proceeding on the said land was initiated under Section 144 of Cr.P.C. in the year 2016. When Chhotu Ram sold this land to another person then again the proceeding under Section 144 of Cr.P.C. which was subsequently converted into Section 145 of Cr.P.C. is still pending and the stage of the said proceeding is at Section 146 of Cr.P.C. Counsel submits that the private respondent nos.10 to 12 had created a new Jamabandi for the said land cancelling the old Jamabandi No.416 which was numbered as Jamabandi No. 37/72, 37/73, 37/74 & 40/67 and the advertisement dated 07.12.2022 in the newspaper had been made in the name of these new Jamabandis holders, which are presently in the name of respondent nos.10 to 12 of this writ petition. Learned senior counsel for the petitioners submits that the Title Suit No.188 of 2022 filed by the petitioners against the private respondents for the present land is also pending. As such, there is gross violation of Clause



5 (घ) of the Bihar State Raiyati Land Lease Policy, 2014.

Therefore, the said advertisement is fit to be set-aside and any action on the basis of said advertisement may not be permitted to continue.

7. On the other hand, the learned counsel for the State submits that the date of advertisement is 07.12.2022 and the said land was chosen for the purpose of construction of Police Station. After the advertisement, the objection was filed by the petitioners before the Land Acquisition Officer, Begusarai regarding the defective title of the persons in whose name the advertisement had been made. He further submits that on the objection of the petitioners, an enquiry was set up and during the inquiry, opportunity of hearing was granted to both the parties i.e. petitioners and private respondents. Both the parties have placed their records and upon hearing the parties and considering all the documents point wise, the said objection was rejected which is annexed as Annexure-B of the counter affidavit filed by the State. In the said objection, all the aspects have been discussed minutely. He also submits that in compliance of the Bihar State Raiyati Land Lease Policy, 2014, a further comment had also been sought for, with regard to further proceeding in the light of the lease policy, which was



submitted on 10.01.2023 and annexed as Annexure-G to the counter affidavit filed by the State and then only the State decided to enter into an agreement under the lease policy followed by the payment of money to the private respondent nos.10 to 12.

8. Learned counsel for the private respondents submits that respondent nos.10 to 12 are the purchaser of the land from one Chhotu Ram and also from his vendees. He submits that after purchase of the said land, the Jamabandi bearing Jamabandi Nos.72, 73, 74 & 67 were created in the name of the private respondents and since then they are continuing in possession over the land. He further submits that prior to taking the land by the Government, the private respondents have to cross two tests. The first test, they have to cross by virtue of filing objection by the petitioners and, the second test, they have to cross by virtue of the direction of the policy namely Bihar State Raiyati Land Lease Policy, 2014 and then only the government has created lease deed in their favour and made payment. Thereafter, taken possession and started construction. Learned counsel raised following points that the very basis of reliefs made by the petitioners, by virtue of two sale deeds are not correct due to the reason that the sale deeds



are not with respect to the Plot no.553 rather it is with respect to the Plot no.558 and the deed of ratification on which the petitioners are relying is not a registered one, rather it is a plain/unregistered ratification deed which is in violation of the Registration Act, 1908.

9. Learned counsel for the private respondent nos.10 to 12 further submits that the present writ petition has been filed by the petitioners only in greed of money because the grand-father of the petitioners had executed a mortgage deed in the year 1982 and for redemption, they filed a title suit but in the said title suit, they had nowhere mentioned about the existence of any deed of ratification. According to him, the said deed of ratification had come by way of pleading only after publication of the advertisement which is challenged in the writ petition. He raised further point that petitioners have filed a Title Suit No.188 of 2022 with a prayer to hold their right, title and possession on the Plot i.e. Khata 14, Khesra 553, Revenue 355 Area 2 Bigha, 10 Kattha, 6 Dhurs.

10. Upon going through the documents, this Court finds that the very basis of the claim of petitioners are registered sale deed dated 28.09.1946 and 04.11.1948 which is for Plot No.558, but land in dispute belongs to Plot No.553. The



Revenue P.S. is shown as 448, Khata No.97 but from the document, it transpires that for this land there is two Khata's. Khata No.97 is the Raiyati Khata whereas Khata No.14 is the Sikmi Khata. So far as the question of deed of ratification is concerned, admittedly, the deed of ratification (*Titirnama*) is an unregistered deed and by virtue of the said deed, Plot No.553 has been corrected. The deed of ratification definitely creates a right in favour of petitioners but since it is not a registered one then in the light of Section 17 (b) of the Registration Act, 1908, it has no value in the eye of law, till it is registered or order passed by the competent Civil Court. Section 17(b) of the Registration Act, 1908 reads as under:-

“17. Documents of which registration is compulsory.—(1) The following documents shall be registered, if the property to which they relate is situate in a district in which, and if they have been executed on or after the date on which, Act No. XVI of 1864, or the Indian Registration Act, 1866 (20 of 1866), or the Indian Registration Act, 1871 (8 of 1871), or the Indian Registration Act, 1877 (3 of 1877), or this Act came or comes into force, namely:—



(a)

(b) *other non-testamentary instrument which purport or operate to create, declare, assign, limit or extinguish whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immoveable property;*

(c)

(d)

(e)”

11. It also transpires to this Court that Title Suit No.188 of 2022 is pending for Khata No.14, Khesra No.553 but the said suit is only for declaration of title. From Schedule I of the said title suit, it transpires that it is for Plot No.553, Khata No.97 (Sikmi Khata No.14) for area 2 Bigha, 10 Kattha and 6 Dhurs, but subsequently, on the next page, Schedule I has been rewritten by pen, where the claim of suit property is for 1 Bigha, 13 Kattha, 10 Dhur, 14 Dhurkies, but from the pleadings as mentioned in the title suit, the statement with regard to deed of ratification has been made and petitioners are demanding relief of declaration of title based on the registered deeds of 1946 & 1948 and by deed of ratification which is not registered.

12. It also transpires to this Court that on one hand,



the petitioners have moved for declaration of title on the suit property by virtue of filing a Title Suit No.188 of 2022 on the basis of documents on which relief demanded in writ petition, but on the other hand they had never challenged the sale deeds executed in favour of the private respondent nos.10 to 12 anywhere. Hence, those sale deeds in which description of plot which is not the subject matter of sale deeds of 1946 and 1948 ratified by virtue of unregistered *Titirnama*; and no subsequent challenge of those deeds created in favour of private respondents has been made and; subsequently filing the title suit for declaration of title in their favour by virtue of the sale deeds of 1946 & 1948 automatically creates shadow on the case of the petitioners. So far as the inquiry report of Circle Officer is concerned, this Court upon perusal of those inquiry reports reached on the conclusion that the discussion has been made in the said inquiry report with regard to documents relating to title of the private respondents, maintenance of their records of right, on the point of possession, *prima facie*, findings of the unregistered *Titirnama* and then reached on *prima facie*, opinion that objections are not maintainable. Subsequently, at the time of recommending the matter according to the Bihar State Raiyati Land Lease Policy, 2014, the specific observation has been



made with regard to records of right and possession in which it has been found that the land under advertisement is vacant land.

13. But in view of this Court that in case the title suit decides in favour of the petitioners, then in that case the entire matter shall go in air, but till the Title Suit No.188 of 2022 shall acquire finality, there is no case of the petitioners. This Court answers this issue accordingly that publication and agreement between the State and private respondents and payment to respondents are completely in accordance with law.

14. As such, the present Writ Petition stands dismissed.

(Dr. Anshuman, J.)

Ritik/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29/08/2023
Transmission Date	NA

