

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3005 of 2023

1. Surendra Yadav Son of Late Raghu Yadav, Resident of Village - Kathi, P.S. - Chatapur, District - Supaul.
2. Nago Yadav, Son of Late Raghu Yadav, Resident of Village - Kathi, P.S. - Chatapur, District - Supaul.
3. Bhupendra Yadav, Son of Late Raghu Yadav, Resident of Village - Kathi, P.S. - Chatapur, District - Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Revenue Dept.
2. The Sub-Divisional Officer, Triveniganj, District - Supaul.
3. The Sub-Divisional Police officer, Triveniganj, District- Supaul.
4. The Anchal Adhikari, Chatapur Block, District - Supaul.
5. Birendra Yadav, Son of Late Sukhdeo Yadav, Resident of Village - Kathi, P.O. - Gwalpara, P.S. - Chatapur, District - Supaul.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Bhanu Pratap Singh, Adv.
For the Respondent/s	:	Mr. Sajid Salim Khan (Sc 25)
		Mr. Wasi Ahmad Khan
For Respondent no. 5	:	Mr. Sanjeev Kumar, Mr. Pravashwen Mishra

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 02-11-2023 Heard learned counsel for the petitioners, State and private respondent i.e. respondent no. 5.

2. This writ application has been filed for setting aside the order dated 09.11.2022 passed by the Respondent no.2/ Sub-Divisional Officer, Triveniganj, District-Supaul and Respondent no.3/Sub-Divisional Police officer, Triveniganj, District- Supaul in Sub-Divisional Janta Darbar, as contained in Annexure – 4, whereby the Anchal Adhikari, Chhatapur has been directed to measure and demarcate the land in question



situated at Mauza Kathi, P.S. Chhatapur, District Supaul, bearing Khata No. 164 Plot No. 135/752/784/785 Area 20 decimal after deposition of measurement fee in presence of the parties.

3. It is the contention of the petitioners that in C.S. Khatian, Plot no.135 having area of 6 acres 59 decimals alongwith other plots under Khata no.14 was recorded in the names of Parbat Pandey, Kanak Pandey, Teu Pandey, Siyaram Pandey and Gauri Pandey. Out of 6 acres and 59 decimals in said plot no.135, the recorded tenant namely Siyaram Pandey transferred two separate pieces of lands having area of 13 kathas and 1 bigha 17% kathas in favour of one Basudeo Yadav through registered deed of sale on 02.04.1960. The said Basudeo Yadav transferred said land of 13 kathas in favour of the father of the petitioners namely Late Ragu Yadav through the registered deed of sale on 24.11.1962. After the said sale-deed, the father of the petitioners namely Raghu Yadav came in possession over the land. The said land was mutated in his name and he is getting Govt. Rent receipts regularly (copy of the rent receipt in the name of Ragu Yadav is annexed as Annexure-1). Subsequently, the respondent no.5 and his brother Late Bachhu Yadav purchased several separate pieces of land in said Plot



no.135 from descendants of recorded tenants and others from the year 2002 to 2005.

4. It is pertinent to mention here that in the year 1970-75 there was revisional survey and in the said survey several big and small plots were carved out from said plot no.135 and accordingly revisional Khatian and map was prepared, but after carving out several new plots in old plot no.135, there were disputes in respect to their boundaries which were not correctly given in Khatian and map, but fact remains that 13 kathas of land in plot no.135 is still in possession of the petitioners since 1962 and therefore, because of over lapping boundaries of several new plots carved out in Revision Survey and purchased by the Respondent no.5, subsequently, they could not take land of the petitioners. On 11.04.2005, the petitioners also purchased 21 decimals of land in the said plot no.135 from Upendra Yadav through two registered deeds of sale. Because of said boundary dispute between the parties, the respondent no.5 and others filed a title suit, vide Title Suit no.55/2006, before the Subordinate Judge- III, Supaul against the petitioners and others in respect to their newly purchased land i.e. plot no.135 under Khata no.164 which are new plot nos.786, 490, 783 and 502. At present the suit is still pending.



5. It is further submitted on behalf of petitioners that in the year 2014, said land was got measured and demarcated by the Anchal Adhikari, Chatapur in presence of both the parties and accordingly, 25.5 decimals of land in plot no. 135 was found in possession of these petitioners and $11\frac{3}{4}$ decimal of land was found in road and rest $11\frac{1}{4}$ decimals of land was found in possession of respondent no. 5 and others. It is further submitted that on 05.10.2022, at the instance of respondent no. 5, again the said land alongwith other lands were measured and demarcated by the Anchal Adhikari, Chatapur, by which, on the basis of incorrect boundary as shown in newly carved plots in old plot no. 135 during revisional survey land of the petitioners were shown to be the land of the respondent no. 5 and against the said measurement and demarcation by the Anchal Adhikari, Chatapur, the petitioners have filed appeal before the D.C.L.R. Triveniganj, which is still pending.

6. In the aforesaid facts and circumstances, it is submitted by learned counsel for the petitioner that impugned order has been passed without considering the facts and circumstances of the case and is contrary to law and therefore, it is fit to be set aside.

7. In this case, separate counter affidavit has been



filed on behalf of respondent no. 2 to 4 / State and private respondent no. 5. It is jointly urged on behalf of respondents that this writ application is not maintainable, in view of the fact that petitioner has already preferred an appeal before the D.C.L.R., Triveniganj against the order impugned. Petitioner cannot be allowed to pursue multiple remedies for the same relief before different forums.

8. Heard learned counsel for the parties and perused the materials available on record. In order to resolve the boundary dispute between the parties, the concerned respondent authority has only directed the Circle Officer, Triveniganj to measure and demarcate the boundary in presence of the parties. Nowhere right and title of the land in question have been decided by the impugned order. Moreover, in this case, petitioner has already preferred an appeal before the D.C.L.R., Triveniganj against the order impugned, which is still pending. It is settled law that a person cannot be allowed to seek same relief before two different forums. The Apex Court in the case of **Satya Pal Anand vs. State of M.P. and Ors.**, reported in **(2016) 10 Supreme Court Cases 767** has held that pursuance of multiple remedies for the same relief before different forum renders petition not maintainable. Moreover, adjudication of



disputed question of fact and declaration of private rights of parties cannot be decided in a writ jurisdiction under Article 226 of the Constitution of India.

9. Taking into consideration entire facts and circumstances of the case and the law laid down by the Apex Court in the case of Satya Pal Anand (*supra*), this writ application is not maintainable and is, accordingly, dismissed.

(Prabhat Kumar Singh, J)

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