

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.947 of 2019

In

Civil Writ Jurisdiction Case No.15111 of 2018

Beni Madhav Kanu @ Benimadhav Shah Son of Late Shiv Poojan Kanu
Resident of Village Shahpur, Post Office and Police Station- Shahpur,
District- Bhojpur. Appellant/s

Versus

1. The State of Bihar
2. The District Magistrate cum Collector Bhojpur, Ara.
3. The Additional District Magistrate Bhojpur, Ara.
4. The Sub-Divisional Officer Bhojpur, Ara.
5. The Deputy Collector Land Reforms Bhojpur, Ara.
6. The Circle Officer Shahpur, District Bhojpur. Resident of Village Shahpur,
District- Bhojpur.
7. The Station House Officer Shahpur Police Station, District Bhojpur.
Resident of Village Shahpur, District- Bhojpur.
8. Narendra Kumar Singh @ Madan Singh Son of late Shankar Dayal Singh
Resident of Village Shahpur, District- Bhojpur.
9. Satendra Kumar Singh Son of Late Shankar Dayal Singh Resident of Village
Shahpur, District- Bhojpur.
10. Collector Singh Son of Late Shankar Dayal Singh Resident of Village
Shahpur, District- Bhojpur.
11. Ganesh Prasad Singh Son of Late Ramdev Singh Resident of Village
Shahpur, District- Bhojpur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Gopal Govind Mishra, Advocate
For the Respondent/s : Mr.Md. Khurshid Alam (AAG-12)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJIV ROY)

Date : 05-12-2023

The present appeal has been preferred by the
appellant against the order dated 02.07.2019 passed by the
learned Single Judge in CWJC No. 15111/2018 by which after
taking into account the fact that the Title suit was filed in



respect of the land in question by the appellant's brother as 'Karta' of the family, which came to be dismissed by the learned Munsif, Jagdishpur and against which a Title appeal is pending, whether the petitioner was in possession or not is question of fact that cannot be adjudicated in a proceeding under Article 226 of the Constitution of India, the writ petition was dismissed.

2. The matter relates to a piece of land with the following details:

Khata no. 331, Khesra no. 6258 (area 5.71 decimal) and khata no. 1521, khesra no. 6275 (area 2.5 decimal) total area 8.21 decimal. According to the appellant petitioner, he was dispossessed from the plots by the Circle Officer, Shahpur who gave possession to the private respondent on 23.05.2018.

3. Earlier, the brother of the appellant (being 'Karta' of the family) had preferred Title Suit No. 128 of 2001, which was dismissed on 03.06.2016 by the learned Munsif, Jagdishpur, Bhojpur.

4. Aggrieved, a Title Appeal No. 101/2016 was preferred on 24.09.2016 which according to the appellant is/was pending. The case of the appellant-petitioner in the writ



petition was that earlier he was dispossessed from the plots in question on 16.02.2018. His further submission before the writ Court was that on a petition filed by the private respondent no. 1 dated 26.03.2018, he was again dispossessed on 23.05.2018.

5. Left with no option, the writ petition was preferred.

6. Learned Single Judge took up the matter and after taking note of the fact that for the same piece of land, as a 'Karta' of the family, the elder brother of the appellant-petitioner had preferred Title Suit No. 128 of 2001 which came to be dismissed on 03.06.2016 and thereafter Title Appeal No. 101 of 2016 was preferred which is/are pending, the same cannot be adjudicated under Article 226 of the Constitution of India. The writ petition was accordingly dismissed on 02.07.2019.

7. Still aggrieved, the present appeal filed.

8. Having gone through the facts of case, the materials on record and the submissions put forward by the appellant-petitioner, it is clear that on behalf the family of the appellant-petitioner, his elder brother as 'Karta' of the family agitated the matter before the concerned Civil Court vide Title



Suit No. 128 of 2001 and having failed to get positive order, the Title Appeal No. 101 of 2016 was filed which is still pending as informed by the learned counsel for the appellant-petitioner. Thus, if during the pendency of the Title Appeal, any development took place with respect to the land in question, the aggrieved person has/had the option of moving before the concerned Appellate Court by filing an appropriate petition.

9. Instead, the appellant-petitioner wants an indirect order and in continuation of that, despite the pendency of the Title Appeal before the competent Civil Court, firstly the writ petition was filed and after the learned Single Judge passed a reasoned order, the present appeal.

10. Needless to say, there is no error in the order passed by the learned Single Judge.

11. The appeal is without any merit and is accordingly dismissed without any observation on the title of the property which issue is said to be pending in appeal.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Jagdish/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	07.12.2023
Transmission Date	

