

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 37 of 2014

Sevak Sanjay Nath S/O Late Vinda Prasad, Resident of Sevak Sanjay Nath
Kali Nayas, Kali Nagari, P.S. - Raxaul, District - Raxaul East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Motihari East Champaran.
2. The District Magistrate, Motihari, East Champaran
3. The Superintendent of Police, Motihari, East Champaran
4. The Sub Divisional Officer, Raxaul, East Champaran
5. The Land Reforms Deputy Collector-Cum-S.D.O., Raxaul, East Champaran
6. The Circle Officer, Raxaul
7. The Block Development Officer, Raxaul
8. Sunil Kumar
9. Anil Kumar
10. Shailesh Kumar

Respondent Nos. 8 to 10

All S/o Jagmohan Lal, resident of village- Ashram Road, PO+PS- Raxaul,
District East Champaran (Bihar)

11. Bettiah Estate, through its Manager, Raj Kachahari Compound Bettiah,
District West Champaran, Bihar.

... .. Respondent/s

Appearance:

For the Petitioner/s	:	Mr. Anand Ojha, Advocate Mr. Sanjeet Kumar, Advocate
For the State	;	Mr. Sanjay Prasad Rai, AC to GP-4
For the Res. No.11	:	Mr. Shailendra Kumar Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

CAV JUDGMENT

Date : 08.09.2023



1. The present writ petition has been filed for quashing the order dated 26.08.2013, passed by the District Magistrate, East Champaran at Motihari, in Misc. Case No. 92 of 2012, whereby and whereunder the application filed by the petitioner, in the light of the order dated 3.8.2012, passed by a co-ordinate Bench of this Court, in CWJC No. 2421 of 2012, has been rejected.

2. The brief facts of the case, according to the petitioner, are that the petitioner is the Chief Trustee of Sevak Sanjay Nath Kali Nayas, situated at Kali Nagari, Raxaul in the District of East Champaran. It has been stated that Sri Jagmohan Lal, son of late Ram Awatar Ram, had acquired 17 katha, 17 dhur of land, situated at Mauza-Raxaul, Khata No.6, Khesra-810, by a registered sale deed, executed by the Bank of Bihar, on 26.4.1946. A title suit bearing Title Suit No.189 of 1989 is stated to have been filed, before the learned Sub-Judge, Motihari, by the aforesaid Jagmohan Lal and the learned Court of Sub-Judge-III, Motihari, by a



judgment dated 01.8.1994 held that the property in question is in possession of the plaintiff, the State of Bihar has got no right to determine the lease, as such the defendants are restrained from disturbing the peaceful possession and occupation of the plaintiff over the suit land/ property. The Ld. Court of Sub-Judge-III, Motihari, thus ordered that the suit is decreed against the defendants and it is declared that the petitioner has acquired valid and indivisible right, title and interest in the suit premises as mentioned in the schedule to the plaint. In paragraph no.25 of the said judgment dt. 01.8.1994, it has been recorded that the plaintiff, i.e. Jagmohan Lal had purchased the suit land from the Bank of Bihar, through a registered sale deed dt. 26.4.1946. The Ld. Court of Sub-Judge-III, East Champaran at Motihari had then prepared the decree dated 11.08.1994.

3. The aforesaid judgment dt. 1.8.1994, passed by the Ld. Court of Sub-Judge-III, Motihari was challenged by the Bettiah Raj, by filing a title



appeal bearing Title Appeal No. 68 of 1994, however, the same has been dismissed by an order dated 07.05.2004, passed by the learned 5th Additional District Judge, Motihari. It is also submitted that though a restoration petition was filed, but the same has also been dismissed. Subsequently, the aforesaid Jagmohan Lal sold 1 katha, 10 dhur of land, from the aforesaid chunk of land to the petitioner and had also handed over its peaceful possession to the petitioner, whereupon a formal agreement of sale in favor of the petitioner was executed on 02.04.2002. Thereafter, the petitioner had filed a petition before the permanent Lok Adalat, East Champaran at Motihari on 22.07.2005, which was numbered as Case No.340/2005 and the Ld. Permanent Lok Adalat, East Champaran at Motihari, by an order dated 14.07.2005, had passed an award with regard to 1 katha 10 dhur of land appertaining to Khata No.6, Khesra no. 810, Tauzi No.951, Mauza-Raxual, Police Station-Raxaul, holding that the respondent namely, Jagmohan Lal has not made any claim



over the said piece of land and he had disposed the said piece of land by a sale letter dt. 02.04.2002. Thus, on the basis of a compromise, the said case no. 340 of 2005 was disposed off by the Ld. Permanent Lok Adalat, East Champaran at Motihari by an award dated 14.07.2005 by recording herein that the petitioner is having right, title and interest over the said land in question and nobody has got any connection with the same.

4. It is the further case of the petitioner that he had then constructed a boundary wall over the said plot in question and wanted to construct a Charitable Hospital, however, some people having vested interest, with a view to harass the petitioner, had filed an application for cancellation of the mutation carried out in favor of said Jagmohan Lal, before the learned Deputy Collector Land Reforms, which was numbered as Case No.37 of 2008, however, the said application was dismissed, by an order dated 25.05.2009. Yet another petition was filed before the learned Court



of Deputy Collector Land Reforms, Raxaul, under the provisions of the Bihar Land Dispute Redressal Act, 2009, alleging therein that the land in question is the land of the State of Bihar and neither the aforesaid Jagmohan Lal nor the petitioner has got any right, title and interest over the said land in question, but the same was also dismissed, by an order dated 30.05.2011, passed by the learned Court of Deputy Collector Land Reforms. Thereafter, the Circle Officer, Raxaul had demarcated the land admeasuring 1 khata, 10 dhur and informed the Deputy Collector Land Reforms. The matter did not end here, inasmuch as yet another person filed an application before the Sub-Divisional Officer, Raxaul, for initiating proceedings under Section 144 of the CrPC, whereupon the Sub-Divisional Officer, Raxaul had restrained the petitioner from making any further construction over the land in question, nonetheless, the said petition was dismissed by the Sub-Divisional Officer, Raxaul, by an order dated 02.09.2011. The petitioner had then again



started construction work, however, the Circle Officer and the local police in connivance with some local persons had again filed a petition under Section 144 of the CrPC, whereupon the Sub-Divisional Officer, Raxaul had again initiated a proceeding under Section 107 of the CrPC against the petitioner bearing Case No.645 of 2011, without realizing the fact that the very same Sub-Divisional Officer, Raxaul had earlier dismissed the petition filed under Section 144 of the CrPC, by an order dated 02.09.2011.

5. It is next contended on behalf of the petitioner that being harassed to bits, the petitioner had filed a writ petition before this Court bearing CWJC No. 2421 of 2012, which was disposed off, by an order dated 03.08.2012, whereby and whereunder the Collector, East Champaran was directed to consider the representation of the petitioner dated 14.01.2012 and pass a reasoned order, within a period of two months. The District Magistrate, East Champaran



at Motihari had ultimately passed an order dated 26.08.2013, rejecting the representation of the petitioner, which has been challenged in the present proceedings.

6. The learned counsel for the petitioner has submitted that the Ld. Collector, East Champaran at Motihari, by the impugned order dated 26.08.2013, without any application of mind, has held that since the final decision of the Civil Court is yet to be received, it would not be proper to interfere on the administrative side, since the same would disturb the balance of convenience as also on the ground that Section 144 CrPC proceedings are pending adjudication. The learned counsel for the petitioner has further submitted that the learned Collector, East Champaran at Motihari has ignored the admitted position to the effect that the tile suit bearing Title Suit No.189 of 1989 has been decreed in favor of the vendor of the petitioner, whereafter the title appeal bearing Title Appeal No. 68 of 1994, filed by Bettiah Raj has



also stood dismissed for default on 17.09.1994 and even the restoration petition filed by the appellant thereof has been dismissed, however, only on the ground of a so called second restoration petition being pending, the learned Collector has said that the final decision of the Civil Court is yet to be received, which in any view of the matter is not only perverse but also illegal. It is also submitted that the learned Collector has ignored the award of the permanent Lok Adalat passed on 14.07.2005, which is a decree as defined U/s. 2 (2) of the Code of Civil Procedure, 1908. In fact, the Ld. Collector has also ignored the fact that the Deputy Collector Land Reforms, Motihari has dismissed not one but two petitions filed for cancellation of Jamabandi/ mutation order, once by an order dt. 25.05.2009 and then by an order dated 30.05.2011. Thus, it is submitted that the Ld. Collector, East Champaran at Motihari has committed a gross error both on facts as also in law, while passing the impugned order dated 26.08.2013, hence the same is fit to be set aside.



7. The learned counsel for the petitioner has contended that the Ld. Collector has erred by not protecting the legal right of the petitioner under Article 300A of the Constitution of India and has failed to ensure that people with vested interest are prevented from filing frivolous cases one after another in the form of Jamabandi cancellation case/Section 144 Cr.P.C. proceedings. It is stated that such kind of litigation is clearly malafide, which has stood fostered by the erroneous and contemptuous approach of the learned Collector.

8. It is next contended that Bettiah Raj cannot take any advantage of the pending successive restoration applications. In fact, the judgment of the Civil Court, as aforesaid, is an adjudication between the parties, creating legal certainty, which the Ld. Collector has not only failed to acknowledge but has also tried to upset.

9. Lastly, it is submitted that transfer of property through an instrument or by an operation of law stands on a different footing. A transfer by



operation of law does not need any validation of Transfer of Property Act, 1882 or the Registration Act, 1908, which has got no application in such transfers.

10. *Per contra*, the learned counsel for the respondent-State has submitted that the land in question belongs to the Bettiah Estate, with regard to which litigation is pending before the learned Civil Court of competent jurisdiction. It is also submitted that the larger chunk of land, out of which the land in question has been carved out, admeasuring 17 katha, 17 dhur was let out to one M/s Hardiya Concern by the Bettiah Estate, in the year 1922, by a registered deed of lease dated 10.08.1922. Thereafter, in the year 1951, one Jai Kishun Ram had approached the Bettiah Estate to let out the land in question along with other land, whereupon the Bettiah Estate had let out the land in question to the said Jai Kishun Ram, for 30 years, by a registered deed of lease dt. 19.10.1951. It is stated that during the interregnum period, in



the year 1950, the Bihar Land Reforms Act was introduced and the Zamindari of Bettiah Estate had vested in the State of Bihar in the year 1955, whereafter, the lease of aforesaid Jai Kishun Ram had expired in the year 1981.

11. It is the further case of the respondent-State that when the aforesaid Jai Kishun Ram failed to get the lease renewed, he circumspectly filed a title suit bearing Title Suit No. 189 of 1989, before the learned Court of Sub-Judge, Motihari against the Bettiah Estate, concealing the real facts and instead, pleading therein that he had purchased the land in question, in the year 1946, from the Bank of Bihar. The said suit was though contested by the Bettiah Estate, but the suit was decreed against the Bettiah Estate, by a judgment dated 01.08.1994, whereafter the Bettiah Estate had filed a title appeal bearing Title Appeal No.68 of 1994, however, the said appeal had stood dismissed for default by an order dt. 07.05.2004, whereafter the Bettiah Estate had filed a petition for restoration of



the said appeal bearing Misc. Case No.3 of 2004, however, the same was also dismissed. The Bettiah Estate had then filed yet another application for restoration, which was registered as Misc. Case No.1 of 2012 and the same is stated to be pending before the Ld. Court of Additional Judge No. III, East Champaran at Motihari. It is also submitted that since the appeal filed by the Bettiah Estate is yet to be adjudicated on merits, the learned Collector, East Champaran at Motihari, by the impugned order dated 26.08.2013, has refrained from interfering in the matter on the administrative side, since the same would disturb the balance of convenience. It is also submitted that the petitioner is claiming his right, title and interest with regard to 1 katha, 10 dhur, on the strength of, an unregistered sale deed, which is not permissible under Section 17 of the Indian Registration Act, 1908, hence his right, title and interest over the land in question is not clear. It is also stated that the jamabandi created in favor of the petitioner is also under challenge before the



Ld. Court of Additional Collector, East Champaran
at Motihari.

12. It is next contended that the aforesaid M/s. Hardiya Concern in connivance with the Bank of Bihar had fraudulently got the lease property of the Bettiah Estate put on auction, suppressing the real fact and ownership of the land in question and therefore, the entire transaction of auction sale and purchase is fraudulent. It is thus submitted that since the writ petitioner has not got any unimpeachable title or peaceful possession over the land in question, he is not entitled to any protection from the respondent State authorities.

13. The learned counsel appearing for the rest of the respondents, including that of Bettiah Estate have supported the aforesaid stand taken by the respondent-State. Nonetheless, it has been contended by the Ld. counsel for the Bettiah Estate that the land in question along with other land, admeasuring 5 bigha 14 katha and 12 dhur were under the proprietorship of the Bettiah Estate & the



Bettiah Estate had let out the land in question to one M/s. Hardiya concern for establishing a rice mill, by a registered lease deed dated 25.08.1922, for a period of 30 years, which, in turn, had taken loan from the Bank of Bihar Ltd. for establishing the rice mill in question, however, it could not repay the loan leading to the Bank of Bihar Limited instituting a suit before the learned Court of Sub-Judge, Motihari against the said M/s. Hardiya concern, whereafter the said suit was decreed in favor of the Bank of Bihar and then an execution case was filed for realization of the decretal amount, leading to said property being put on auction sale, whereafter the Bank of Bihar Ltd. had itself purchased the property in auction sale and subsequently, it had sold the same to the aforesaid Jai Kishun Ram, by a registered sale deed dated 24.04.1946, despite the fact that the status of the Bank of Bihar was only that of a lessee, which had stepped into the shoes of M/s. Hardiya Concern.

14. It is also submitted by the Ld. counsel for the



Bettiah Estate that the Bank of Bihar Limited as also the aforesaid Jai Kishun Ram are trespassers and they do not have any right, title and interest over the land of the Bettiah Estate in question. In fact, the afore-said Jai Kishun Ram had applied for a building lease of an area of 2 bigha occupied by the aforesaid rice mill, including the land in question, whereupon a lease deed dt. 19.10.1951 was executed in between the Bettiah Estate and the aforesaid Jai Kishun Ram, for a period of 30 years. It is further submitted that since after expiration of the period of lease, lease was not renewed, the said Jai Kishun Ram had, with ulterior motive, filed the said Title Suit No.189 of 1989, before the Ld. Court of Sub-Judge, Motihari against the State of Bihar & the Bettiah Estate for declaration of his right, title and interest over the land in question. During the pendency of the suit, the said Jai Kishun Ram died, whereafter his nephew Jagmohan Lal was substituted in his place and ultimately, the said suit was decreed in favor of the plaintiff, whereupon the Bettiah Estate had



filed an appeal bearing Title Appeal No.68 of 1994, before the Ld. Civil Court, Motihari, however, the same was dismissed for default, whereupon a restoration petition was filed but the same was also dismissed & then a second restoration petition has been filed, which is pending adjudication. Hence, it is submitted that the dispute regarding the title of Jagmohan Lal over the land in question has not been finally decided by the competent Civil Court, till date, thus the order dt. 26.08.2013, passed by the Ld. Collector, East Champaran at Motihari, does not suffer from any infirmity.

15. It is also contended that the sale deed in question, qua the aforesaid Jagmohan Lal and the petitioner, has not been registered, thus the same has got no evidentiary value in the eyes of law. Moreover, it is submitted that a Permanent Lok Adalat has got no power to declare the right, title and interest over the land in question, hence the award passed by the Permanent Lok Adalat, Motihari has got no legal sanctity.



16. I have heard the learned counsel for the parties and gone through the materials on record. The facts, which are not in dispute are that by virtue of a judgment and decree dated 01.08.1994 and 11.08.1994 respectively, passed by the Ld. Sub-Judge, Motihari, in Title Suit No.189 of 1989, the aforesaid Jagmohan Lal has perfected his right, title and interest with regard to 17 katha, 17 dhur of land situated at Khata No.6, Khesra No. 810, Mauza-Raxaul and out of the same, land admeasuring 1 katha 10 dhur has been sold to the petitioner, by an agreement to sale dated 02.04.2002, for a sale consideration of Rs. 90, whereupon the petitioner had filed a case before the learned Permanent Lok Adalat, East Champaran at Motihari bearing case No. 340 of 2005, wherein it had been stated that the petitioner has purchased a land admeasuring 1 katha, 10 dhur by a sale deed for a sum of Rs. 90 from the opposite party therein namely, Jagmohan Lal and he is in possession of the same, however, since he is being threatened by the local people of being



dispossessed from the said land, he has approached the learned Lok Adalat for issuing notice to the opposite party and solving any kind of impediment in peaceful possession of the petitioner over the land in question. Admittedly, the said Jagmohan Lal had appeared in the aforesaid case, before the Permanent Lok Adalat, East Champaran at Motihari, whereupon a compromise petition was filed by the petitioner and the said Jagmohan Lal on 08.07.2005 and then, the learned Court of Permanent Lok Adalat, East Champaran at Motihari had passed an award dated 14.07.2005, holding the petitioner to be having right, title and interest over the land in question and the aforesaid Jagmohan Lal having no objection to the same.

17. This Court finds that firstly, the aforesaid judgment dated 01.08.1994, passed by the learned Trial Court has not stood annulled by any higher Court of law, and secondly, the contention of the respondents to the effect that since the sale deed



in between the petitioner and the aforesaid Jagmohan Lal has not been registered, the same would have no value in the eyes of law and consequently, the right, title and interest of the petitioner over the land in question is not legally valid, is fallacious inasmuch as Section 54 of the Transfer of Property Act, 1882 read with Section 17 of the Registration Act, 1908 amply makes it clear that any agreement for transfer of any interest in an immovable property of a value of more than hundred rupees and upwards is required to be registered, however, in case, tangible immovable property is having a value of less than hundred rupees, such transfer can be made either by a registered instrument or by the delivery of property. Thus, in the present case, since the value of the property is less than a sum of Rs.100, the sale deed/agreement to sale was not required to be registered and mere putting the petitioner in possession of the land in question, by the aforesaid Jagmohan Lal, was sufficient. However, the matter does not end here, inasmuch as, subsequently, a



compromise petition was filed jointly, by the petitioner & the aforesaid Jagmohan Lal, in a case bearing Case No.340 of 2005, filed by the petitioner, before the Permanent Lok Adalat, East Champaran at Motihari, leading to the Permanent Lok Adalat, East Champaran at Motihari passing an award dated 14.07.2005, by which the right, title and interest of the petitioner over the land in question has definitely stood perfected.

18. In this regard, it would be apt to refer to Section 21 and Section 22 of the Legal Services Authority Act, 1987, which postulates that the award of a Permanent Lok Adalat shall be final and binding on all the parties thereto and the same shall be deemed to be a decree of a civil Court and shall be executed by the competent Civil Court as if it were a decree made by a court. Thus, unless and until the aforesaid award dated 14.07.2005, passed by the Permanent Lok Adalat, East Champaran at Motihari in case No.340 of 2005 is annulled by a higher Court of law, the same would



definitely have the effect of conferring right, title and interest upon the petitioner over the land in question. Thus, the Ld. Collector, East Champaran at Motihari, while passing the impugned order dated 26.08.2013, has grossly erred by coming to a conclusion that since the final verdict of a Civil Court is yet to be received, it is not proper to interfere in the matter on the administrative side, inasmuch as the Ld. Court of Sub-Judge, Motihari has already delivered the final judgment and decree dt. 01.8.1994 and 11.08.1994 respectively, in the aforesaid Title Suit No.189 of 1989, which though was challenged by the Bettiah Raj/Estate, by filing Title Appeal No. 68 of 1994, however, the same had stood dismissed for default by an order dt. 07.5.2004 and in fact, the restoration petition, filed by the Bettiah Estate, has also stood dismissed, hence there is no iota of doubt that the matter has attained finality and the Ld. Civil Court has already delivered its final judgment, thus apparently the order dt. 26.08.2013, passed by the Collector, East Champaran at Motihari smacks of a



myopic and a perverse view having been taken by the Ld. Collector as also depicts a total non-application of prudent mind, apart from the fact that the same has been passed contrary to law, thus, is fit to be set aside.

19. As far as the proceedings under Section 144 Cr.P.C. & the Jamabandi cancellation proceedings are concerned, this Court finds that the petitions filed for cancellation of Jamabandi, existing in favor of the aforesaid Jagmohan Lal, have been dismissed not only once but twice, firstly by an order dated 25.02.2009, passed by the Deputy Collector Land Reforms in Case No.37 of 2008 and secondly by an order dated 30.05.2011, passed by the Ld. Court of Deputy Collector, Land Reforms, Raxaul in Case No.02 of 2011-12, In fact, some persons had initiated proceedings U/s. 144 of the Cr.P.C. against the petitioner and others, which was registered as Case No. 418/M/11, however the same has also stood dismissed by an order dt. 02.09.2011, passed by the Sub-Divisional Officer,



Raxaul. Thus, this Court finds that people with vested interest have left no stone unturned to oust the petitioner from the land in question, regarding which, the petitioner has perfected his right, title and interest, nonetheless, the petitioner has come out clean at every stage and all the proceedings have culminated in his favor but still the Ld. Collector, East Champaran at Motihari has, by the impugned order dated 26.08.2013, in a malafide and a perverse manner, with ulterior motives, dismissed the representation of the petitioner unlawfully, resulting in impeding the lis involved in the present case from attaining finality.

20. It is a well settled principle of law that there should be an end to litigation, a judicial decision must be accepted as correct, no man should be vexed twice for the same cause and there should be a finality of the judicial proceedings as also that of judgments in order to prevent multiplicity of judicial decisions on the same subject-matter, having same cause of action. The principle of



finality of litigation is based on a sound firm principle of public policy. Doctrine of finality ensures an end to a litigation in public interest.

21. In the present case, it can be seen that couple of times, Jamabandi cancellation cases were filed by strangers before the learned Court of Deputy Collector, Land Reforms, Raxaul, however, the same have all stood dismissed and in fact, Section 144 CrPC proceedings have also stood dismissed, apart from there being a judgment/ decree as also an award, as aforesaid, in favor of the petitioner, which all conclusively go to prove that the petitioner is having a legal and a valid right, title and interest over the land in question.

22. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, this Court finds that the order dated 26.08.2013, passed by the learned Collector, East Champaran at Motihari is not only contrary to the facts and circumstances of the case, but is also contrary to law, hence is quashed.



23. Nonetheless, this Court deems it fit and proper to observe that the right, title and interest of the petitioner in the land in question shall be subject to the final outcome of the aforesaid Title Appeal No.68 of 1994, in case the same is restored by any chance.

24. The writ petition stands allowed.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
CAV DATE	10.04.2023
Uploading Date	08.09.2023
Transmission Date	NA

