

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12888 of 2018

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Rajendra Vishal S/o Late Natho Vishal R/o New Area, Nawada, P.O. and P.S.
Nawada, District Nawada at present President, Nawada Zila Tailik Sahu
Sabha, Nawada

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Chairman, Bihar Land Tribunal, Patna
3. The Commissioner, Magadh Division, Gaya
4. The Deputy Collector Land Reforms, Nawada
5. The Circle Officer, Nawada
6. The R.S.S., Nawada
7. Dr. Ashok Kumar S/o Rameshwar Ram R/o Par Nawada, Gaya Road,
Nawada, P.O. and P.S.- Nawada, District- Nawada
8. Pradeep Kumar S/o Durga Swarnkar R/o Mohalla Purani Bazar, Nawada,
P.O. and P.S.- Nawada, District- Nawada
9. Udai Kumar Barnwal S/o Late Motilal Barnwal R/o Mohalla Garh Par,
Nardiganj Road, P.O. and P.S.- Nawada, District- Nawada
10. Krishna Kumar Barnwal S/o Pyare Barnwal R/o Mohalla Lal Chowk, Sonar
Patti Road, Nawada, P.O. and P.S.- Nawada, District- Nawada
11. Brahmdeo Prasad S/o Chutari Sao R/o Mohalla Purani Bazar, Nawada, P.O.
and P.S.- Nawada, District- Nawada

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Naresh Prasad
For the Respondent/s : Mr.Md.Khurshid Alam -Aag12

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 12-11-2024

In the instant petition, petitioner has prayed for
following relief:-

*1. That this writ application is being filed for
setting aside the order dated 13.04.2018 passed
by the Chairman, Bihar Land Tribunal, Patna in
B.L.T. Case No. 544 of 2017, by which the
application filed on behalf of the petitioner u/s 9
of the B.L.T.Act, 2009 has been dismissed as well*



as setting aside the order dated 20.04.2017 passed in Land Disputes Redressal Appeal Case No. 05/2013 passed by Divisional Commission, Magadh Division, Gaya whereby and whereunder he had set aside the order by which the Land Reforms Deputy Collector, Nawada was directed to handing over the possession of Bihar Land in question in favour of petitioner vide order dated 27.12.2012 passed by D.C.L.R. Nawada in Dispute Resolution Case No. 01/2012-2013.

2. Learned counsel for the petitioner submits that there is bone of contention over the land in question and petitioner is one of the donee of the land in question which was executed in favour of the petitioner on 15.01.2007 through gift deed. Respondent nos. 7 to 11 are also claiming the land in question. The description of the land in question of three katha bearing area 3 acre 11 ¼ i.e. 4864 sq ft. is as under:

Old Khata	Old Plot
139	269
New Khata	New Plot
156	510
156	520

Learned counsel for the petitioner submits that the petitioner has challenged the order of BLT dated 13.04.2018 in BLT Case No.544 of 2017 by which the application filed on behalf of the petitioner under section 9 of BLT Act has been dismissed as well as the order dated 20.04.2017 passed in Land Disputes Redressal Appeal Case No. 05/2013 by Divisional Commissioner, Magadh Divison, Gaya, setting aside the order



dated 27.12.2012 passed by D.C.L.R. Nawada in Dispute Resolution Case No. 01/2012-13 whereby Land Reforms Deputy Collector, Nawada was directed to hand over the possession of land in question in favour of the petitioner.

3. Learned counsel on behalf of the State submits that there is dispute between both the parties with regard to title over the land in question. Title over the land was being claimed by both the parties and the BLT Court has rightly dismissed the petition and upheld the decision of Divisional Commissioner, Magadh Division, Gaya. Petitioner has not approached the competent court after dismissal from the BLT.

4. From the perusal of the material available on record, it is crystal clear that there is dispute between the parties with respect to title over the land in question and same is also evident from the order of BLT. The order of BLT clearly mentioned all the issues are related to the title of the land in question. Petitioner is claiming title over the land in question and other parties are also claiming title over the land in question. The Hon'ble Supreme Court in catena of judgments, has held that regular suit is appropriate remedy for settlement of dispute relating to property rights between private persons. The remedy under Article 226 of the Constitution shall not be available



except where there is violation of some statutory duty on the part of statutory authority is alleged. It is held that the High Court cannot allow its constitutional jurisdiction to be used for deciding disputes, for which remedies under the general law, civil or criminal are available. The jurisdiction under Article 226 of the Constitution being special and extraordinary and it should not be exercised casually or lightly on mere asking by the litigant. In this context, the decision of the Hon'ble Supreme Court in the case of ***Sohan Lal Vs. Union of Indian & Anr.*** reported in ***AIR 1957 SC 529*** and in the case of ***Radhey Shyam & Anr. Vs. Chhabi Nath and Ors***, reported in ***(2015) SCC 423*** are quite relevant.

5. In the case of ***Sohan Lal (supra)***, Hon'ble Supreme Court has observed as under :

“We do not propose to enquire into the merits of the rival claims of title to the property in dispute set up by the appellant and Jagan Nath. If we were to do so, we would be entering into a field of investigation which is more appropriate for a Civil Court in a properly constituted suit to do rather than for a Court exercising the prerogative of issuing writs. These are questions of fact and law which are in dispute requiring determination



before the respective claims of the parties to this appeal can be decided. Before the property in dispute can be restored to Jagan Nath it will be necessary to declare that he had title in that property and was entitled to recover possession of it. This would in effect amount to passing a decree in his favour. In the circumstances to be mentioned hereafter, it is a matter for serious consideration whether in proceedings under Art. 226 of the Constitution such a declaration ought to be made and restoration of the property to Jagan Nath be ordered.”

6. In the case of **Radhey Shyam (supra)**, Hon’ble Supreme Court in paragraphs 64 and 65 has observed as under :

“64. However, this Court unfortunately discerns that of late there is growing trend amongst several High Courts to entertain writ petition in cases of pure property disputes. Disputes relating to partition suits, matters relating to execution of a decree, in case of dispute between landlord and tenant and also in a case of money decree and in various other cases where disputed question of property are involved, writ courts are entertaining such disputes. In some cases the High Courts, in a routine manner, entertain



petitions under Article 227 over such disputes and such petitions are treated as writ petitions.

65. We would like to make it clear that in view of the law referred to above in cases of property rights and in disputes between private individuals writ court should not interfere unless there is any infraction of statute or it can be shown that a private individual is acting in collusion with a statutory authority.”

7. In the light of the discussion made above, disputed aspect with respect to title over a land cannot be decided in writ jurisdiction. Accordingly, the present writ petition stands disposed of as not maintainable.

8. However, dismissal of writ would not be hurdle for the petitioner to approach appropriate forum for redressal of his grievance within a period of four weeks from the date of receipt of this order.

(Alok Kumar Pandey, J)

vashudha/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	14.11.2024
Transmission Date	NA

