

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3447 of 2018

1. Ramesh Paswan and Ors
2. Suresh Paswan,
3. Subhash Paswan,
4. Ashok Paswan, All are Sons of Late Parmeshwar Paswan, Resident of Village- Daulatpur, P.S. and District- Jehanabad.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. Collector, Jehanabad.
3. Deputy Collector, Land Reforms, Jehanabad.
4. Anchal Adhikari, Jehanabad.
5. Dwarika Paswan,
6. Pramod Paswan,
7. Ramjivan Paswan,
8. Jagdish Paswan, 5 to 10 are Sons of Late Musafir Paswan,
9. Birendra Paswan, Son of Late Chanarik Paswan,
10. Jitendra Paswan,
11. Rajan Paswan,
12. Ranjan Paswan, 10 to 12 are Sons of Late Ramchandra Paswan,
13. Ram Raj Paswan,
14. Ram Eqbal Paswan,
15. Sunil Paswan,
16. Mahesh Paswan, 13 to 16 are Sons of Late Sarju Paswan, Respondents No.5 to 16 are residents of Village- Daulatpur, P.S. and District- Jehanabad.
17. Ambika Paswan,
18. Rajendra Paswan, Both are sons of Late Mauji Paswan,
19. Amarjeet Paswan,
20. Ranjeet Paswan,
21. Gautam Paswan, 19 to 21 are Sons of Late Ram Babu Paswan,
22. Ramji Paswan, Son of Late Shiv Narayan Paswan, Respondents no.17 to 22 are residents of Village- Daulatpur, P.S. and District- Jehanabad.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Jitendra Pd. Singh, Adv.
Ms.Sripriya Sinha, Adv.
Mr.Varun Krishna Singh, Adv.



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

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 11-11-2024

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

That, this is an application for issuance of an appropriate writ or writs setting aside the order dated 11.08.2017 passed by the Deputy Collector, Land Reforms, Jehanabad in Mutation Appeal No. 09 of 2015-16 (wrongly mentioned as 2005) by which he has allowed the appeal preferred by respondent 2nd set against the order dated 10.04.2015 passed by the Anchal Adhikari, Jehanabad in Misc. Case No. 08 of 2015-16 by which he has allowed the claim of the petitioners for collection of rent after entering their name in Jamabandi to the land in question and/or to grant any other relief/reliefs for which the petitioner is legally entitled in the facts and circumstances of the case.

2. Learned counsel for the petitioner submits that the present dispute relates to the land bearing Khata No. 31, Plot No. 212, 213, 214, 215, 337, 180, 181, 182, 183, 184 having an area of 3 acre 16 decimal situated in Mauza Daulatpur Anchal, District – Jehanabad. He further submits that Partition



Suit No. 261 of 2013 regarding the land in question is pending before the learned Sub-Judge – Ist, Jehanabad.

3. Learned counsel for the State submits that he has filed counter affidavit and in Para 8 it has been mentioned that a partition suit is also pending before the competent court.

4. In view of aforesaid facts and circumstances, as submitted by the learned counsel for the State that with respect to the land in question, a partition suit is pending before the competent Court, it is well settled that once a partition suit is pending with regard to the land, no Court has jurisdiction to adjudicate the matter. 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, the said aspect cannot be decided in writ jurisdiction and the appropriate remedy, in the facts and circumstances of the case, is before the Civil Court. Petitioner has not made out a case. Accordingly, the present writ petition is disposed of as not maintainable.

(Alok Kumar Pandey, J)

alok/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	12.11.2024.
Transmission Date	N/A

