

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6575 of 2018

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1. Murari Prasad Sharma @ Murari Singh, S/o late Ramudit Prasad Singh @ Bhagirath Prasad Singh.
 2. Pinak Dhar Singh @ Pinak Dhar Prasad Singh, S/o Bachchu Singh @ Indradeo Prasad Singh.
 3. Rishikesh Sharma, Son of Bachchu Singh @ Indradeo Prasad Singh, All are Residents of Village-Toygarh, P.S.-Jairampur Mor Barbigha, Dist.-Sheikhpura.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Bihar Land Tribunal Patna through its Registrar, Polo Road, Patna
3. The Collector, Sheikhpura,
4. Anchal Adhikari, Barbigha, District-Sheikhpura
5. Saravan Pandit, Son of late Sidheshwar Pandit,
6. Sanjay Pandit, Son of late Sidheshwar Pandit,
7. Chintu Pandit, Son of late Sidheshwar Pandit,
8. Rajesh Pandit, Son of late Sidheshwar Pandit,
9. Awadhesh Pandit, Son of late Rameshwar Pandit.
10. Dhaneshwari Devi, W/o Awadhesh Pandit. All Residents of Village-Toygarh, P.S.-Jairampur Mor Barbigha, Dist.-Sheikhpura.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajni Kant Jha, Advocate
For the Respondent/s : Mr. Sajid Salim Khan, SC-25

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 26-09-2024

Heard Mr. Rajni Kant Jha, learned counsel for the petitioners and Mr. Sajid Salim Khan, learned counsel for the State.

2. At the outset, learned counsel for the petitioners submits at the Bar that on account of inadvertence in paragraph-4(iv) of the reply to the counter affidavit filed on behalf of



respondents no. 3 and 4, it has wrongly been mentioned that the petitioners without lapse of time came in action, sought information on 06.08.2010 instead of 06.08.2008. The date of seeking information under the Right to Information Act, 2005 ought to be 06.08.2008, is the contention of learned counsel for the petitioners.

3. In view of the aforesaid, the afore-noted date of seeking information be read as “06.08.2008”.

4. The petitioners are aggrieved with the order dated 23.08.2017 passed in B.L.T. Case No. 254 of 2016 as also the order dated 26.07.2013 passed by the Collector, Sheikhpura in Miscellaneous Case No. 09 of 2009-10, whereby the learned Tribunal and the Collector, Sheikhpura refused to cancel the Basgit Parcha, alleged to have been issued in favour of the private respondents way back on 20.07.1969. Petitioners also sought quashing of the entire proceedings arising out of Basgit Parcha Case No. 89 of 1968-69, including Basgit Parcha in question issued by the Circle Officer, Barbigha.

5. This is the second round of litigation, as earlier the petitioners approached before this Court in C.W.J.C. No. 5825 of 2010, on being aggrieved by the order of Collector, Sheikhpura passed in Miscellaneous Case No. 09 of 2009-10,



refusing to cancel the Basgit Parcha, alleged to have been issued with respect to four decimals of land.

6. Learned counsel for the petitioners contended that by the order dated 08.04.2010 passed in C.W.J.C. No. 5825 of 2010, the petitioners were directed to approach before the Collector, Sheikhpura with the original genealogical table issued by the Circle Officer, Barbigha, with a request to review the earlier order dated 11.11.2009. The Court observed that in the event, Collector, Sheikhpura is satisfied that the petitioners had connection with the recorded tenant of the lands in question then he may pass appropriate orders recalling the order dated 11.11.2009, of course after notice to private respondents no. 7 to 9.

7. In compliance with the order dated 08.04.2010, the petitioners moved before the Collector, Sheikhpura. Nonetheless, the Collector, Sheikhpura admitted that the petitioners are recorded tenant but refused to cancel the Parcha on the ground that the claim of the petitioners is barred by time and the Circle Officer has reported that as the matter is of 44 years old, the record of Basgit Parcha Case No. 89/68-69 is not available.

8. Aggrieved, the petitioners moved before the Bihar



Land Tribunal by filing B.L.T. Case No. 254 of 2016, which also stood dismissed by holding that non-availability of record is not the proof of the fact that the Basgit Parcha is forged or has been obtained by fraudulent means.

9. Adverting to the aforesaid facts, Mr. Jha, learned counsel for the petitioners contended that Basgit Parcha dated 20.07.1969 is forged, fabricated and obtained fraudulently without the knowledge of the petitioners or their ancestors. No proceeding had ever been initiated under the Bihar Privileged Person Homestead Tenancy Act. Neither any inquiry was conducted nor any notice was issued or served to the petitioners or their ancestors prior to issuance of the impugned Basgit Parcha. The petitioners are absolute and exclusive owners of the entire 12 decimals of Plot No. 1740 and from genealogical table of the family of the petitioners, it would be evident that the ancestors of the petitioners after partition came in exclusive possession over the said land. For the first time, the petitioners came to know regarding the alleged Parcha in the year 2008 and thereafter filed an application under the Right to Information Act, 2005. Whereupon they have been informed by letter no. 360 dated 08.09.2008 issued by the Circle Officer, Barbigha that the land in question was granted to one Rameshwar Pandit



under Basgit Parcha Case No. 89/68-69. It has also been informed that the records of the case are not available because it is an old matter of about forty years. Certain discrepancies in the case number have also been pointed out by learned counsel for the petitioners that it has not been verified as to whether the Basgit Parcha Case No. 89/68-69 is genuine and correct or Basgit Parcha Case No. 86/68-69, as has been mentioned in Register-II-Tenants Ledger.

10. *Per contra*, learned counsel for the State vehemently countered the contentions advanced on behalf of the petitioners and submitted that respondents no. 5 to 10 are landless, homeless, backward class people and have been residing over the land in question for the last 44 years on the basis of Basgit Parcha issued in favour of Rameshwar Pandit in Basgit Parcha Case No. 86 of 1968-69. It is further contended that the petitioners are unable to prove that the private respondents have obtained Basgit Parcha by fraudulent means and moreover, the order passed by the Collector, Sheikhpura was affirmed by the Bihar Land Tribunal in B.L.T. Case No. 254 of 2016. It is further contended that the Basgit Parcha in question was issued in the name of Rameshwar Pandit and after death of Rameshwar Pandit, his son Awadhesh Pandit has



allotted fixed amount for construction of a house under Indira Awas Yojna in the name of his wife over the land allotted under Basgit Parcha comprising four decimals. But, as soon as the petitioners came to know about the allotment of fund and construction of a house under Indira Awas Yojna, they approached before the Collector for cancellation of Basgit Parcha.

11. This Court has anxiously heard learned counsels for the respective parties and also perused the orders passed by the Collector as well as the Bihar Land Tribunal.

12. The case of the petitioners is based upon the only contention that Basgit Parcha in question has been obtained by playing fraud upon the authorities and is fraudulent piece of paper. Except the allegation, no cogent material has placed on record; thus despite the onus lies upon the petitioners, they failed to produce any material to support the aforesaid contention.

13. Well settled it is that onus of proof lies on the person who alleges fraud has been committed. Section 104 of the Evidence Act, 1872 states that the person who pleads fraud is responsible for proving it. In the case in hand, not even the initial burden of proof has been discharged by the petitioners.



14. Non-availability of the record cannot *ipso facto* makes an order arising out of or in relation to the said record, forged and fabricated. The respondent/State officials have never even suspected or doubted about the genuinity of the Basgit Parcha issued in favour of the private respondents, the copy of which has also been produced before the Revenue Court as well as the Tribunal.

15. This Court is also not oblivious of the fact that the Basgit Parcha was issued way back in the year 1969 in Basgit Parcha Case No. 86 of 1968-69 and, for the first time, the petitioners had approached before the Collector, Sheikhpura in Miscellaneous Case No. 09/09-10. From the mutation register, it appears that the Tenants Register was opened in the name of Rameshwar Pandit on the basis of Basgit Parcha Case No. 86 of 1968-69 and it has been informed by the concerned Circle Officer that the order was passed on 20.07.1969. Thus, in any view of the matter, it is difficult for the Court to accept the contention of the petitioners that they were not aware of the issuance of Basgit Parcha.

16. It would be worthy to note that the doctrine of laches is a legal principle that emphasizes the importance of timely and fair legal proceeding to prevent injustice caused by



time lapsed. It states that if someone delays in pursuing a legal claim, they may be barred from seeking reliefs or remedies. The law leans in favour of those who are alert and vigilant. A writ petition can be dismissed on the ground of delay and laches, as the same are important factors to be considered when deciding petitions under Article 226 of the Constitution.

17. The petitioners had twice unsuccessfully moved before the Collector, Sheikhpura and the order has also been affirmed by the Bihar Land Tribunal. Mere allegations would not be suffice to unsettle the settled position after a lapse of such a long period.

18. For all the afore-noted grounds, this Court does not find any merit in the writ petition nor the petitioners have made out a case to interfere in the impugned order. The writ petition stands dismissed.

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08-10-2024
Transmission Date	

