

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.938 of 2018

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Tapeshwar Prasad Son of Uttam Prasad @ Uttim Rai, Resident of Village-
Tarachak, Police Station- Danapur, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The District Collector, Patna.
3. The Deputy Collector Land Reforms, Danapur, Patna.
4. The Circle Officer, Danapur, Patna.
5. Smt. Shakuntala Agrawal, W/o Shree Jawala Prasad Agrawal, Resident of
Mohalla- S.P. Verma Road, Police Station- Gandhi Maidan, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Suraj Narain Yadav
For the Respondent No. 5	:	Mr. Amit Shrivastav (Sr. Advocate)
		Mr. Binay Kumar Singh
		Mr. Lokesh
		Mr. Girish Pandey
For the State	:	Mr. Saurabh Kumar A.C. to S.C. 19

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 27-11-2024

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

*That this is an application for
issuance of a writ in the nature of
Certiorari to quash the Order dated
23.08.2017 passed in B.L.T. Case
No.1035/2015 by learned Member
Administrative whereby he allowed the
case and set aside the Order dated*



21.07.2010 passed in Misc. Case No. 11/2009-10 by the D.C.L.R., Danapur and further for issuance of an appropriate writ, order or direction commanding upon the respondents not to interfere with the Jamabandi no. 183 standing in the name of petitioner with respect to the land of Khata no. 204, Plot no.176 area 20 1/2 dec., Thana no. 24, Tauzi no. 5234 situated in Mauza - Mainpur Shanker, P.S. - Danapur, District – Patna.

2. Learned counsel for the petitioner submits that petitioner has approached this Court against the order of BLT passed on 23.08.2017. Learned counsel submits that order of DCLR is annexed at annexure-10 which is allowed in the favour of the petitioner. Against the order of DCLR, respondent no. 5 approached BLT and BLT has given direction that aggrieved party knock the door of the competent civil court. Learned counsel for the petitioner submits that disputed plot No. 176 area 20 ½ decimal, Khata No. 204, Thana No. 24, Tauzi No. 5234 is situated in Mauza-Mainpur Shanker, P.S.- Danapur,



District-Patna.

3. Learned counsel for the Respondent No. 5 has filed counter affidavit but in the counter affidavit it has not been mentioned that title suit is pending before the competent court but the same is evident from the order passed by the BLT.

4. From the perusal of the BLT order itself, the suit with regard to the land in question is pending since 2014 before sub-judge-1 Danapur, vide Title Suit No. 233 of 2014.

5. In the view of aforesaid facts and circumstances, title suit is pending before the competent Court, it is well settled that once a title suit is pending with regard to the land, no Court has jurisdiction to adjudicate the matter. 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.

6. 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.”

7. 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.”

8. 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.

9. However, dismissal of writ would not be hurdle for the petitioner to approach appropriate forum for redressal of his grievance.

10. It is needless to mention that the period which has



already been spent in judicial forum and in pursing the present petition may be considered sympathetically while considering the aspect of delay.

11. Pending I.A(s), if any, stands disposed of.

(Alok Kumar Pandey, J)

vashudha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.11.2024
Transmission Date	NA

