

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.133 of 2024

In
Civil Writ Jurisdiction Case No.2412 of 2017

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1. Barun Kumar Puri Son of Late Purnanand Puri Resident of -Mehdiganj, P.S- Mehdiganj (Old Khajekalan) Patna City, Patna-800008 At present Puri Niwas, Road No 6/c Rajendra Nagar, Dist- Patna 800016.
 2. Mrs. Usha Puri, Wife of Barun Kumar Puri Resident of -Mehdiganj, P.S- Mehdiganj (Old Khajekalan) Patna City, Patna- 800008 At present Puri Niwas, Road No 6/c Rajendra Nagar, Dist- Patna 800016.
 3. Mrs. Apurva Puri, D/o Barun Kumar Puri Resident of -Mehdiganj, P.S- Mehdiganj (Old Khajekalan) Patna City, Patna- 800008 At present Puri Niwas, Road No 6/c Rajendra Nagar, Dist- Patna 800016.
 4. Rishi Raj Puri, Son of Late Arun Kumar Puri Resident of -Mehdiganj, P.S- Mehdiganj (Old Khajekalan) Patna City, Patna-800008 At present Puri Niwas, Road No 6/c Rajendra Nagar, Dist- Patna 800016.
 5. Chaitanya Puri Mahant @ Chaitanya Puri, Son of Late Arun Kumar Puri Resident of -Mehdiganj, P.S- Mehdiganj (Old Khajekalan) Patna City, Patna-800008 At present Puri Niwas, Road No 6/c Rajendra Nagar, Dist- Patna 800016.
 6. Karik Kumar Puri Mahant @ Kartik Kumar Puri, Son of late Arun Kumar Puri Resident of -Mehdiganj, P.S- Mehdiganj (Old Khajekalan) Patna City, Patna- 800008 At present Puri Niwas, Road No 6/c Rajendra Nagar, Dist.- Patna 800016.

... .. Appellant/s

Versus

1. The State of Bihar Through the Principal Secretary, Department of Revenue and Land Reforms, Govt of Bihar, Patna.
2. The Additional Secretary, Department of Revenue and land Reforms, Govt. of Bihar, Patna.
3. The Commissioner, Patna.
4. The Land Acquisition Officer, Bihar, Patna.
5. The District Magistrate, Patna.
6. The Deputy Collector, Land Reforms, Patna Sadar, Patna.
7. The S.D.O, Patna Sadar, Patna.
8. The Circle Officer, Patna Sadar, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Kulanand Jha, Advocate
For the Respondent/s : Mr. AAG-12



**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HARISH KUMAR)**

Date : 26-04-2024

Heard the learned Counsel for the appellants and the Government Advocate for the respondents.

2. Seeking exception to the order/judgment of this Court dated 12.01.2024 passed by the learned Single Judge in CWJC No. 2412 of 2017, the present letters patent appeal is preferred.

3. While questioning the judgment/order under appeal, learned Advocate for the appellants, *inter alia*, contended that the father of the appellant's no. 1 had purchased the land measuring 1 acre 82 decimals bearing Khata No. 167, Khesra No. 243, Municipal Plot No. 2356 Mauza Sadikpur Sangram vide sale deed 18.07.1946 from Most. Lalita Kuer. The appellants being legal heirs inherited the said land from Late Puranand Puri; and since then they had continuous, uninterrupted possession of the said land and was also paying rent to the Government.

4. In the year 2016, the appellants came to know that the land, in question, bearing Plot No. 2356 has been included and shown in the list of acquired land. The appellant no. 1



immediately submitted representation to the Principal Secretary, Revenue and Land Reforms that the land, in question, has been acquired without any information or with their consent. It is also the contention of the writ petitioners-appellants herein that the necessary provisions of the Land Acquisition Act has never been followed nor they have been paid any compensation under the Land Acquisition Act. Adverting to the aforesaid facts, it was urged that the Government Officials especially, the Land Acquisition Officer and the concerned District Magistrate were under obligation to ensure the compliance of Section 11 of the Land Acquisition Act, however, neither there has been any publication of preliminary notification nor any notice has been issued to the affected person.

5. Aggrieved by the action of the State Officials, the petitioners preferred CWJC No. 2412 of 2017 with the prayer to return the land, in question, pertaining to Plot No. 2356 in its original possession to the appellants or pay compensation according to the Land Acquisition Act, which was allegedly acquired by the State Officials without the consent of the appellants for expansion of Nalanda Medical College and Hospital.

6. The aforementioned contention of the writ petitioners



was refuted by the State Officials. The land in question, as per the record, was already acquired in pursuance to Land Acquisition Case No. 102/1958-59 for Nalanda Medical College and Hospital. The Valuation Register of the land acquisition proceeding shows that the land, in question, is mentioned as *Gair Majaura Aam Land* and the nature of the land is *Garha*. Moreover, the award was already prepared vide Award No. 16 in the name of Patna Municipal Corporation, and the land was acquired for the purposes of construction of Nalanda Medical College and Hospital.

7. Having considered the rival submissions of the parties and taking note of the disputed question of facts regarding nature of the land, as to whether it is a *raiya* land or Government land, the writ petition came to be dismissed on 12.01.2024, reserving liberty to the writ petitioners to seek remedy before the appropriate forum as may be available to them, in accordance with law.

8. Trite it is that disputed question of facts which requires consideration of evidence, which is not on record, will not normally be entertained by a Court in exercise of its equitable jurisdiction under Article 226 of the Constitution of India, though there is no absolute bar for entertaining a writ



petition, if the facts of the case warrants adjudication.

9. The Constitution Bench of the Hon'ble Supreme Court in the case of ***Shri Sohan Lal Vs. Union of India and Anr.***; ***AIR 1957 SC 529*** has unequivocally held that the question of title is to be determined in a civil suit and not in writ jurisdiction. The decision of the Apex Court has been reiterated in numbers of cases and holds the field till date. A High Court while exercising equitable jurisdiction does not enter upon a determination of questions/facts which demands an elaborate examination of evidence to establish the right for which writ claimed for, is the settled law.

10. In ***State of Rajasthan Vs. Bhawani Singh and Ors.***; ***AIR 1992 SC 1018***, the Hon'ble Supreme Court while considering the jurisdiction as well as the issue involved in disputed questions pertaining to title of the property held the writ petition misconceived insofar as it asked for, in effect declaration of writ petitioner's title to the plot. Disputed questions relating to title cannot be satisfactorily gone into or adjudicated in a writ petition.

11. The case in hand is one where a dispute has been raised regarding the ownership and nature of the land, in question, and further additional point has been taken by the



State Officials that the land, in question, was subject matter of Land Acquisition Case No. 102/1958-59. However, this fact is disputed by the writ petitioners-appellants. The determination of all the points in issue require evidence and in the opinion of this Court cannot be adjudicated in writ jurisdiction.

12. In view of the reasons aforenoted, this Court does not find any infirmity in the impugned order. Liberty is already reserved in favour of the writ petitioners-appellants to seek remedy before the appropriate forum as may be available to them, in accordance with law. We do not find any merit in the present letters patent appeal, accordingly the same stands dismissed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.04.2024.
Transmission Date	NA

