

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7041 of 2020

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Mohammad Amanul Haque Son of Late Mohammad Abdul Salam, Resident of Mohalla-Ward No. 2, Makhdeom Rasid Nagar, Phulwari, Patna-5.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Land Reforms and Revenue, Government of Bihar, Patna.
2. The District Collector, Patna.
3. The Deputy Collector, Land Reforms, Patna City.
4. The Circle Officer, Patna Sadar, District-Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dhananjay Kumar
For the Respondent/s : Mr.Sajid Salim Khan (Sc25)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

10 08-01-2024 This writ petition has been filed for quashing the order dated 19-09-2015 passed in Miscellaneous Case No.- 05 of 2015-16 (Md. Shem vs. the State of Bihar and Others) by the Circle Officer, Patna Sadar. By the said order, the Circle Officer, Patna Sadar issued direction to the Revenue *Karmachari* to implement the order of stay dated 17-09-2014 passed in C.W.J.C. No.- 22059 of 2013 in respect of land pertaining to Mauza-Sandalpur, Thana no.-11, Khata no.- 437, Plot no.-791, area-1.89 acres and submit action taken report.

2. In this case, a counter affidavit has been filed on behalf of Respondent no. 2 to 4 stating therein that the Hon'ble Court, vide order dated 04-04-2016 passed in C.W.J.C. No.



22059 of 2013 and other connected two cases, has been pleased to observe following:

“....unless and until the issues of title of the parties over the lands in dispute are decided by the competent civil court, the issue of possession cannot be effectively resolved by the revenue authorities by passing order in mutation proceeding. The impugned revisional order passed by the Additional Collector, Patna that the matter be decided afresh by the competent authority i.e. D.C.L.R., Patna City (Patna) under the provisions of the Act, 2009 cannot be countenanced, since the competent authority cannot decide the complex question of title based on Sada-hukunnama or settlement/ transfer made by some co-operative society. This would be beyond the scope of Section 4 of the Act, 2009.

In above view of the matter, the impugned revisional order dated 15.09.2012 passed in Mutation Revision Case No. 23 of 2007 by the Additional Collector, Patna, as also the order by the Additional Collector, Patna, as also the order dated 16.10.2007 passed in Miscellaneous Case No. 9 of 2004-05 by the respondent / D.C.L.R., Patna City, are hereby set aside and quashed, and all the parties are given liberty to raise all the issues of facts and law with respect to the lands in dispute, which are available to them, in aforesaid pending Title Suit No. 77 of 2005. The learned Sub-Judge-5, Patna City, who is said to be in seisin of the aforesaid pending title suit, shall take up the aforesaid title suit on priority basis and shall make all endeavour to decide the same at an early date strictly in accordance with law on the basis of evidence/ material produced by the parties.”



3. Learned State counsel submits that the aforesaid Title Suit No.-77 of 2005 is still under-consideration before the learned Civil Court. He further submits that the order impugned i.e. order dated 19-09-2015 passed in Misc. Case No.05/2015-16 by the then Circle Officer, Patna, in the light of the order dated 04-04-2016 passed in C.W.J.C. No. 22059 of 2013 and other connected two cases, is tenable in the eyes of law and does not require any interference by this Court.

4. In view of aforesaid facts and circumstances, the writ petition is disposed of with liberty to the petitioner to raise all the issues, which have been raised in the present writ petition, before the competent authority i.e. concerned Civil Court, where the aforesaid title suit is pending.

(Prabhat Kumar Singh, J)

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