

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6277 of 2023

Indrakali Devi, W/o Late Bhagya Narayan Thakur, Resident of Mohalla Saifullagang (Rajkumargang), Ward No. 12, P.S. Town, District-Darbhangha.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Darbhanga.
3. The Sub Divisional Officer, Sadar, Darbhanga.
4. The Deputy Collector Land Reforms, Sadar Darbhanga.
5. The Circle Officer, Sadar, Darbhanga.
6. Godavari Devi, Wife of Shri Bansidhar Jha, Resident of Mohalla Saifullagang (Rajkumargang), Ward No. 12, P.S. Town, District-Darbhangha.
7. Sri Prem Narayan Mishra, son of Late Braj Kishor Mishra, Resident of Mohalla Dighi West, Professor Colony, P.O. Lal Bagh, P.S. Town, District-Darbhangha.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr. Manoj Kumar Jha, Advocate
For the State	:	Mr. Sajid Salim Khan, SC-25
For Respondent No. 6	:	Mr. Ankush Kr. Sinha, Advocate
For Respondent No. 7	:	Mr. D.K. Sinha, Sr. Advocate
		Mr. Prem Narayan Mishra, Advocate
		Ms. Akanksha Malviya, Advocate
		Mr. Vivek Anand Amritesh, Advocate
		Dr. Shuchi Bhari, Advocate
		Mr. Akash Keshav, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 15-01-2024

1. Heard learned counsels for the parties.
2. This writ application has been filed for quashing the order dated 01.11.2022 passed by the learned D.C.L.R., Sadar, Darbhanga (Respondent No. 4) in Napi Appeal No. 01 of 2022-23, whereby and where-under the D.C.L.R., Sadar, Darbhanga (Respondent No. 4) approved the demarcation made



by the Anchal Amin, Sadar, in execution of the judgment dated 24.01.2022 passed by this Hon'ble Court in C.W.J.C. No. 12170 of 2015.

3. The brief facts of the case are that private Respondent No. 7, namely Prem Narayan Mishra, filed Land Dispute Case No. 748/2012-13 before the D.C.L.R., Darbhanga (Respondent No. 4), who vide order dated 11.05.2013 rejected the petition under B.L.D.R. Act. Against the aforesaid order dated 11.05.2013, the private Respondent No.7 filed B.L.D. Appeal No.310/2013-14 before the Commissioner, who by order dated 20.05.2014 allowed the appeal. Thereafter, the private Respondent No. 6, namely Godavari Devi, filed B.L.T. Case No. 394/2014, which stood dismissed vide dated 29.06.2015. Private Respondent No. 6 thereafter preferred a writ before this Hon'ble Court against the order dated 29.06.2015 passed in B.L.T. Case No. 394/2014, bearing C.W.J.C. No. 12170 of 2015, which was disposed of by this Hon'ble Court vide order dated 24.01.2022 with direction to the Circle Officer, Sadar, Darbhanga (Respondent No. 5) to carry out the measurement of disputed land appertaining to Khata No.105, Khesra No.9376 (old) 831, 832 (new), Mauza- Saifullahganj, Ward No.-6(old)/12 (new), in presence of interested party and accordingly the Amin,



Sadar Anchal measured the land in presence of the parties and submitted report. Thereafter, the petitioner filed the present writ application wherein vide order dated 08.12.2023, the Respondent Nos.1 to 3 were directed to file counter affidavit stating therein that as to whether pursuant to order 24.01.2022 passed in C.W.J.C. No.12170/2015, the land in question has been measured or not.

4. It is the contention of the petitioner that pursuant to order dated 24.01.2022 passed by this Hon'ble Court in C.W.J.C No. 12170 of 2015, the petitioner received a communication contained in Memo No. 88 dated 02.02.2022 by which Anchal Amin was directed to demarcate the land in question having total area- 1 katha on 17.02.2022 and submit a report with trace map immediately. It is next submitted that on 17.02.2022, the Anchal Amin came and started measurement of land in dispute in which son of the petitioner was also present along with private Respondent Nos. 6 and 7. The Anchal Amin started measurement ignoring the boundary given the respective sale deed of the parties as per choice of private respondents without affording any opportunity to the petitioner and prepared collusive measurement report and as such the son of the petitioner did not signed on the report submitted by Anchal



Amin. Thereafter the petitioner filed objection petition before the Circle Officer (Respondent No. 5) on 19.02.2022 against the aforesaid measurement report of the Anchal Amin who intentionally left west portion of the land of the petitioner ignoring the boundary given in the respective sale deed of the parties at the time of measurement of the land in question. The Circle Officer (Respondent No. 5), even without submission of the measurement report, informed the petitioner that the measurement was done in light of the order of this Hon'ble Court passed in C.W.J.C. No. 12170 of 2015 and if the petitioner is not satisfied, she may file objection before the appropriate forum. Thereafter the petitioner filed Measurement Appeal No. 01 of 2022-23 before the D.C.L.R., Darbhanga, who dismissed the same vide order dated 01.11.2022 observing that the measurement was done on the basis of order of the Hon'ble Court. Feeling aggrieved, the present writ application has been filed.

5. On the other hand, learned senior counsel appearing on behalf of private Respondent No. 7 submits that the entire proceeding initiated at the instance of the petitioner before the authorities below as well as the present writ petition is designed to get a declaration from this Hon'ble Court that she



is the right and title holder of Plot No.: 832 'क', which after due inquiry and measurement by the competent authorities has been found to be land not belonging to her (petitioner) and also that she has failed to produce any document/evidence in regard to her title over the same. It is further submitted that from a bare perusal of the writ petition, as also the order impugned, it will be apparent that the petitioner has not been able to make out any case for interference of this Hon'ble Court. If the petitioner intends to get her right and title over the aforesaid Plot No. 832 'क', she has remedy available elsewhere and not in this Hon'ble Court.

6. It is submitted by learned counsel appearing on behalf of the State that in pursuance to the order dated 24.01.2022 passed by this Hon'ble Court in C.W.J.C. No. 12170 of 2015, the Circle Officer, Sadar, Darbhanga (Respondent No. 5) measured the land appertaining to Khata No. 105, Khesra No. 9376(0) 631, 632 (new), Mauza- Saifullahganj, Ward No. 6 (old)/12(new) in presence of the interested parties, including this petitioner and submitted a detailed trace map along with report. Against the measurement report, the petitioner preferred Napi Appeal before the D.C.L.R. Darbhanga (Respondent No. 4), who, after hearing the parties and perusing the records,



dismissed the appeal vide order dated 01.11.2012.

7. Considering the rival submissions and materials available on record, it is not in dispute that in this case, basically, right, title and possession of the petitioner over the Plot No. 832 'क', Ward No. 6 (old) / 12 (new), Mauza-Saifullahganj, is involved, which cannot be decided by this court in writ jurisdiction.

8. In the above view of the matter, this Court is not inclined to interfere in the matter in its extra-ordinary writ jurisdiction.

9. Further, the petitioner is advised to approach the appropriate authority available to the petitioner in accordance with law.

10. If the petitioner files her representation/appeal /application before the appropriate authority, the same shall be dispose of in accordance with law, after hearing the parties.

11. It goes without saying that if any question of limitation arises before the appropriate authority, the same shall be considered, taking into consideration the fact that the petitioner was pursuing the issue before this Court under Article 226 of the Constitution of India.

12. With the aforesaid observations and directions,



this writ application is disposed of.

(Prabhat Kumar Singh, J)

shashank/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.01.2024
Transmission Date	NA

