

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7485 of 2016

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Baijnath Prasad Gupta son of Late Radhe Ram, resident of Guptapatti, Ward No. 8, Banmankhi, P.O. and P.S.- Banmankhi, District- Purnea

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Dilip Kumar Gupta son of Late Shiv Bachan Ram
3. Anil Kumar Gupta son of Late Shiv Bachan Ram Both Respondent No. 2 and 3 are residents of Guptapatti, Ward No. 8, Banmankhi, P.O. and P.S.- Banmankhi, District- Purnea
4. Smt. Saroj Devi wife of Late Ganga Prasad Gupta
5. Madan Kumar Gupta son of Late Ganga Prasad Gupta
6. Vikas Kumar Gupta son of Late Ganga Prasad Gupta
7. Krishna Gupta son of Late Ganga Prasad Gupta All Respondent Nos. 4 to 7 residents of Guptapatti, Ward No. 8, Banmankhi, P.O. and P.S.- Banmankhi, District- Purnea

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gyanand Roy, Advocate
For the State	:	Mr. Dhurjati Kumar Prasad, G.P.-14
		Mr. Subodh Kumar Mishra, A.C. to G.P.-14

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 16-02-2024 Heard Mr. Gyanand Roy, learned Counsel appearing on behalf of the sole petitioner and Mr. Dhurjati Kumar Prasad, learned G.P.-14 duly assisted by Mr. Subodh Kumar Mishra, learned A.C. to G.P.-14.

2. The present petition has been preferred for the following reliefs:-

(i) for quashing the order dated 10th

July, 2015 passed by the Member Administrative,

Bihar Land Tribunal, Patna in B.L.T. Case No. 504



of 2014, as contained in Annexure-1, by which he has dismissed the application filed by the petitioner and declined to interfere with the order dated 15.04.2009, passed by the Collector, Purnea in Mutation Revision No. 86/2006, as well as the order dated 15.05.2006, passed by the Deputy Collector, Land Reforms (hereinafter referred to as 'The DCLR'), Banmankhi, Purnea in Mutation Appeal No. 23/2005-06 with the observation that the parties have liberty to get their dispute resolved by approaching the competent civil court;

(ii) for quashing the order dated 05.04.2009 passed by the Collector, Purnea in Mutation Revision No. 86/2006, as contained in Annexure-2, by which the revision application filed by the petitioner along with his brother late Ganga Prasad Gupta (husband of respondent No. 4 and father of respondent Nos. 5 to 7), has been dismissed and the order dated 15.05.2006 passed by the DCLR, Banmankhi in Mutation Appeal No. 23/2005-06, as contained in Annexure-3, has been upheld;



(iii) for quashing the order dated 15.05.2006, passed by the DCLR, Banmankhi in Mutation Appeal No. 23/2005-06, as contained in Annexure-3, by which the appeal preferred by Respondent Nos. 2 and 3 against the order dated 19.07.2005 passed by the Circle Officer, Banmankhi in Miscellaneous Mutation Case No. 1045/2002-03, has been allowed and the order dated 19.07.2005 passed by the Circle Officer, Banmankhi in Miscellaneous Mutation Case No. 1045/2002-03, as contained in Annexure-7 has been set aside;

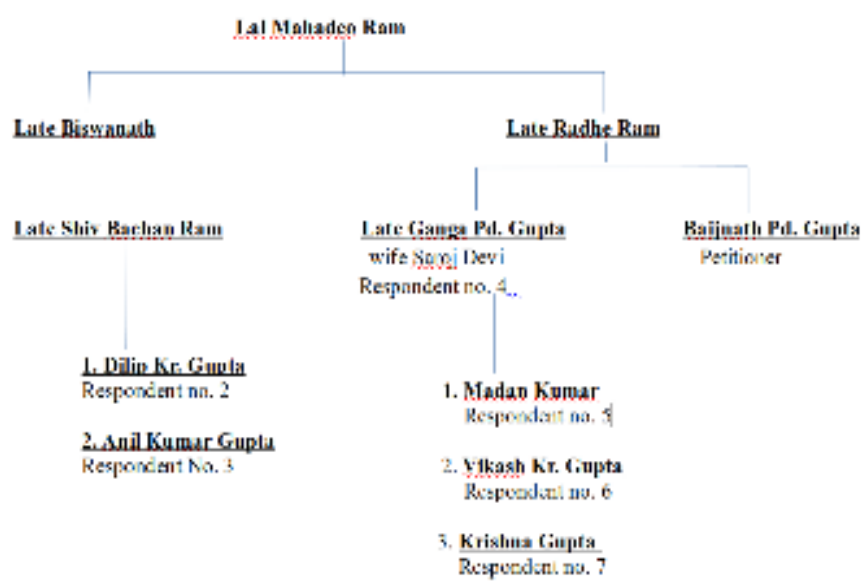
(iv) for confirming the order dated 19.07.2005 passed by the Circle Officer, Banmankhi in Miscellaneous Mutation Case No. 1045/2002-03, as contained in Annexure-7 to this writ application.

(v) for commanding the respondents to restore the jamabandi no. 21, which has been created in the name of late Radhe Ram, father of the petitioner in respect of the land of Mouja-Huli Chakla, Thana No. 72 appertaining to khata no. 5,



plot no. 101M, area 2½ decimals on the basis of mutation case no. 1193/75-76.

3. For better appreciation of relationship of the parties, a genealogical table of the family of the petitioners is being furnished herein below:



4. Late Bishwanath Ram, father of late Shiv Bachan Ram and grandfather of Dilip Kumar Gupta and Anil Kumar Gupta purchased an area of 5 decimals of land of Mouja- Huli Chakla appertaining to khata no. -5, plot no. -101M, through registered sale deed no. 7590, dated 15.12.1953.

5. After purchase, the aforesaid land was mutated in the name of Bishwanath Ram, father of Shiv Bachan Ram and jamabandi no. 21 was created in the name of Bishwanath Ram.

6. Out of the same khata and plot, ie. khata no.- 5, plot



no. -101M of Mouja- Huli Chakla, an area of 8 decimals of land was/were purchased in the name of Radhe Ram, father of the petitioner in the state of jointness with his brother through a registered sale deed no. 1564, dated 22.02.1956. After the purchase, the aforesaid purchased land was mutated in the name of Radhe Ram and jamabandi no. 20 was also created in his name.

7. Apart from above lands, the petitioner and his brother, Ganga Prasad Gupta have other lands too. After the death of Bishwanath Ram, late Radhe Ram father of the petitioner and late Shiv Bachan Ram son of Bishwanath Ram (father of respondent nos. 2 and 3) amicably partitioned their property including the land in question and prepared a memorandum of partition dated 21.11.1973 duly signed by Radhe Ram and Shiv Bachan Ram as well as the witnesses and the scribe.

8. According to the memorandum of partition, 8 decimals of plot no.- 101M purchased in the name of Radhe Ram and 2½ decimals of land of plot no. -101M purchased in the name of Bishwanath Ram have been allotted in the share of Radhe Ram.

9. The case is that on the basis of the memorandum of



partition dated 21.11.1973 (Annexure-4), late Shiv Bachan Ram and late Radhe Ram applied for mutation of the land of their respective share in their names. This led to mutation case no. 1193/75-76 and the lands were later mutated according to the memorandum of partition in the names of Shiv Bachan Ram and Radhe Ram. The '*jamabandi*' was created in their names and rent receipts were issued.

10. Since the land of plot no. 101M, (area 8 decimals) purchased in the name of Radhe Ram was entirely allotted in the share of Radhe Ram, therefore, jamabandi no. 20, earlier created in his name, has been continued in his name. Out of 5 decimals of land (of plot no. 101M), which was purchased in the name of Bishwanath Ram, as half of in the share was allotted to Shiv Bachan Ram and Radhe Ram, new jamabandi no. 48 in respect of 2½ decimals of land of plot no. 101 was created in their respective names. The original jamabandi no. 21, which has already been created in respect of 5 decimals of land in the name of Bishwanath Ram, was entered in the name of Radhe Ram and out of the said jamabandi, an area of 2½ decimals of land was reduced.

11. The case is that on the basis of the aforesaid changes, rent receipts in the name of Radhe Ram was/were



issued by the State in respect of 2½ decimals of land of plot No. 101M.

12. It is his submission that in the year 2002, the respondent nos. 2 and 3 has preferred Miscellaneous Mutation Case No. 1045/2002-03 before the Circle Officer, Banmankhi for grant of rent receipt with respect to 2 ½ decimals of land, (Plot No.-101, Khata No. -5 under Mauza-Huli Chakla) which was negated by the Circle Officer on 19.07.2005 holding that after passing of the Mutation Case No. 1193 of 1975-76, the concerned authority cannot review the matter and if they have a grievance, can move before an appropriate Court (Annexure 7 to the writ petition).

13. Aggrieved, respondent nos. 2 and 3 moved before the Land Reforms Deputy Collector, Banmankhi in Mutation Appeal Case No. 23/2005-06. The petitioner as also other named in the appeal were noticed whereafter a reasoned order was passed on 15.05.2006 after holding that the respondent nos. 2 and 3 are in possession of the land since last four decades and interpolations have been made by the Circle office employees with the sole objective of helping the petitioner by putting water on the papers concerning the Mutation Case No. 1193/1975-76. Accordingly, direction was issued to the Circle Officer,



Banmankhi to take appropriate steps for issuance of receipt for the 2 ½ decimal of land (Annexure 3 to the petition).

14. Aggrieved, now it was the turn of the petitioner to move before the Bihar Land Tribunal, Patna in BLT Case No. 504 of 2014.

15. The Tribunal after hearing the parties and perusing the entire records came to the conclusion that the LRDC, Banmankhi has passed a justified order and paragraph nos. 19 and 20 of the order dated 10.07.2015 (Annexure 1 to the petition) read as follows:-

“19. I find that the submission made by the petitioner as well as the opposite party itself proves that the question of title is involve in the present case as both the petitioner as well as opposite party are claiming the same land on the basis of transfer made in their favour through two different sources. This is a case in which both the parties are claiming right, title and possession of the land. The revenue court is not vested with such jurisdiction and only a competent Civil Court can decide such dispute.

20. Considering the aforesaid facts and circumstances of the case as well as going through the order impugned and the pleadings of the parties. I do not feel inclined to interfere with the order impugned. Accordingly, this application is



dismissed. However, the parties have liberty to get their dispute resolved by approaching the competent Civil Court.”

16. Still aggrieved, the present writ petition.

17. Mr. Gyanand Roy, learned Counsel appearing on behalf of the petitioner submits that earlier an order was passed in Mutation Case No. 1193 of 1975-76 decades later, the respondent nos. 2 and 3 chose to prefer another petition before the Circle Officer, Banmankhi which was rejected by the said respondent holding that the office cannot review its own order.

18. Mr. Roy submits that instead of challenging the original order of 1975-75, the respondent nos. 2 and 3 chose to challenge the order of the Circle Officer passed on 19.07.2005 which led to Appeal No. 23/2005-06 and on erroneous conclusion, the LRDC, Banmankhi directed issuance of receipt in their favour vide its order dated 15.05.2006. He submits that even the Tribunal failed to look into the facts that the original order has not been challenged and on the basis of the order passed by the Circle Officer by which his claim was rejected, the LRDC interfered and even the BLT directed the petitioner to move before the Title Court, if he so wants. He as such, submits that the orders in question are fit to be set aside.



19. Learned State Counsel, on the other hand, submits that so far as challenge to the order of the Circle Officer of 2005 is concerned, the respondent nos. 2 and 3 were fully justified in challenging the same as on the application preferred by them, an order was passed. There is no irregularity in preferring the appeal against the said order.

20. It is his further submission that so far as the order of the learned LRDC, Banmankhi is concerned, a bare perusal of the reasoned order would show that he has observed that the document containing the name of the petitioner was made illegible *inasmuch* as water was thrown on the said paper and even the incorporation of the name of the petitioner had no signature. He has further observed that this was clearly done to help the petitioner in that background, the concerned official visited the spot and made physical verification and only after he was satisfied that the land in question is in possession of the respondent nos. 2 and 3 and the tenants present there informed that they are paying rent to the respondent nos. 2 and 3, the order dated 15.05.2006 was passed.

21. He submits that the BLT in the aforesaid background and after taking into account the observation of the LRDC, Banmankhi rightly came to the conclusion that in that



circumstance, the petitioner is well advised to move before an appropriate Court for the redressal of his grievance.

22. Having heard the parties and perusing the records, this Court is in complete agreement with the submissions put forward by the learned State Counsel.

23. So far as the challenge to the order dated 19.07.2005 of the Circle Officer, Banmankhi is concerned, the respondent no. 2 having knowledge of the incorporation of the name of the petitioner moved before the Circle Officer which was negated and in that circumstances, he was fully justified in moving before the LRDC, Banmankhi in appeal.

24. As such, the said submissions made by the learned Counsel for the petitioner is rejected.

25. So far as the order passed by the LRDC, Banmankhi is concerned, he has narrated the entire facts relating to the case as also the documents that are available in the Circle Office, Banmankhi and the interpolation as also the fact that the same was made ineligible forcing him to make spot inspection whereafter he came to the conclusion that the land in question is in possession of the respondent nos. 2 and 3 and accordingly passed order on 15.05.2006.

26. In that circumstance, the BLT was fully justified



in passing the order in question.

27. This Court is also of the view that the petitioner has remedy of moving before an appropriate Court on civil side for redressal of his grievance.

28. So far as the writ petition is concerned, no relief can be granted to the petitioner as the order dated 10.07.2015 passed by the BLT, Patna in BLT Case No. 504 of 2012 needs no interference.

29. The writ petition stand dismissed.

30. If the petitioner moves before the Civil Court for the redressal of his grievance, any observation made by this Court while hearing the writ petition shall not be taken up for consideration.

(Rajiv Roy, J)

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