

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10594 of 2020

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1. Amrendra Kumar Singh Son of Late Yogendra Narayan Singh Resident of Village- Jamalpur Bazar, Ward No. 15, P.S.- Gogri, District- Khagaria.
 2. Ram Krishna Singh
 3. Bal Krishna Singh
Both Sons of Late Nitya Nand Singh Resident of Village- Gadhiya, P.S.- Mansingh, District- Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue & Land Reform Department, Bihar, Patna.
2. The Divisional Commissioner Munger.
3. The Collector Khagaria.
4. The Deputy Collector Land Reforms Gogri, Khagaria.
5. The Circle Officer Gogri, Khagaria.
6. Chandra Kishore Khetan Son of Late Prabhu Dyal Khetan Resident of Village- Jamalpur, P.S.- Gogri, District- Khagaria.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Surendra Kishore Thakur
For the Respondent/s	:	AC to SC-25
		Mr. Chitranjan Sinha, Sr. Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

15 22-10-2024 Heard learned counsel for the petitioners, learned AC to SC-25 and the learned Senior Counsel appearing on behalf of the private respondent, Mr. Chitranjan Sinha.

2. From the nature of dispute as pleaded in the writ application, it appears that the dispute is purely civil and the same can be resolved by a court of competent civil jurisdiction.

3. The learned counsel for the petitioners submit that a Jamabandi return in the year 1956 was filed by the Zamindar in the name of the ancestors of the petitioners as would manifest



from Annexure-6, page-61 of the writ application with respect to land pertaining to Khata No.80, Khesra No.218, Area 01 acre 94 decimals, Mauza-Jamalpur, P.S.-Gogri, District-Khagaria.

4. The learned counsel submits that after the returns were filed, the land came in possession of the ancestors of the petitioners and Jamabandi No.54 was created in the name of Rajendra Singh and Mahendra Singh, ancestors of the petitioners. It is submitted that Jamabadi No.54 was created with respect to land pertaining to Khata No.80, Plot No.218. It is further submitted that thereafter a family partition took place in which 9.8 decimals of the land pertaining to Khata No.80, Khesra No.218 came in share of the petitioners for which Jambandi No.311 and 312 was created based on Mutation Case No.398 of 2000-2001, thereafter, rent receipts were being issued but all of a sudden the private respondent no.6 filed an application before the DCLR claiming that the land pertaining to Khata No.80, Khesra No.218, Area- .98 decimal belongs to him.

5. The learned counsel for the petitioner submits that Jamabandi No.311 and 312 was created based on Mutation Case No.398 of 2000-2001 in view of the family partition which had taken place in between the family members of the petitioners as



would manifest from Annexure-9 Series to the writ application. It is submitted that petitioners were completely taken a back when respondent no.6 laid his claim over the land pertaining to Khata No.80, Plot No.218, as such they started inquiring that on what basis the respondent no.6 is claiming his possession over the land in question, on enquiring, the petitioners came to know that the instant Jamabandi No.311 and 312 which were created was based on the family partition, but then in the family partition the land pertaining to Khata No.80 was inadvertently recorded as land pertaining to Khata No.08. It is fairly submitted that while getting the land the mutated vide Mutation Case No.398 of 2000-2001, the petitioner had produced the said family partition in which the land was recorded as pertaining to Khata No.08. The learned counsel submits that though in Mutation Case No.398 of 2000-2001, the family partition was submitted but then Jamabandi No.311 and 312 were created with respect to land pertaining to Khata No.80, as such the said flaw in the family partition did not come to the notice of the petitioners.

6. At this stage, the learned Senior Counsel appearing on behalf of the private respondents submit that the issue is complex and the same cannot be adjudicated by this Court in a



writ proceeding. It is also submitted that though petitioner in the writ application claims that in the family partition the petitioners got 9.8 decimals of land pertaining to Khata No.80, but then from perusal of Annexure-13 at page-90 of the writ application, it would manifest that the total land in Plot No.218 is .98 decimals only.

7. The learned Senior Counsel submits that the Khesras mentioned at Annexure-13 which also includes Khesra No.218 is said to be of Khata No.80 which the petitioners had obtained under the Right to Information Act. It is submitted that any information provided under the Right to Information Act cannot be relied by way of evidence for adjudicating an issue, but then submits that what is not disputed rather stands admitted is that even presuming what has been stated in Annexure-13 is correct then the land pertaining to Plot No.218 is only .98 decimal which negates the claim of the petitioners that in the family partition they got share of 9.8 decimals of land pertaining to Plot No.218 pertaining to Khata No.80. The learned Senior Counsel further submits that the case of the private respondent is that, he is the owner of land pertaining to Khata No.80, Plot No.218, Area-.98 decimal. It is submitted that in the family partition of the petitioner, it has been recorded that land



measuring 9.8 decimals pertaining to Khata No.08 has come in the share of the petitioner when there is no plot 218 in Khata No.08.

8. The learned Senior Counsel next submits that since Jamandi No.311 and 312 were created in name of the petitioners, as such the private respondents on coming to know about the same approached the LRDC by filing Case No.21/11-12 and the same came to be decided in favour of the private respondent by an order dated 12.12.2011 (Annexure-4 to the writ application). It is further submitted that the petitioner assailed the order dated 12.12.2011 passed by the DCLR in Appeal No.98 of 2012 before the Divisional Commissioner, Munger, it is submitted that the appeal was dismissed by the Divisional Commissioner, Munger by an order dated 05.10.2013 (Annexure-6 to the writ application). It is next submitted that thereafter petitioner moved before the BLT by filing BLT Case No.81 of 2015 challenging the order passed by the D.C.L.R. and the Divisional Commissioner, Munger in appeal, but BLT Case No.81 of 2015 came to be dismissed by an order dated 09.05.2018 (Annexure-1 to the writ application) which is impugned in the present writ application.

9. At this stage, the learned counsel appearing on



behalf of the State submits that when petitioner has lost before all the forum created for adjudicating such dispute whether it would be prudent for this Court to adjudicate the case on merits or to give liberty to the petitioner to move before an appropriate forum of competent civil jurisdiction for getting the issue in dispute adjudicated.

10. After hearing the learned counsel for the parties and considering the submissions made, the Court does not find any merit in the writ application, the writ application is dismissed. However, the same would not preclude the petitioner from approaching a court of competent civil jurisdiction for getting the dispute adjudicated.

(Satyavrat Verma, J)

Prakash Narayan

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