

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 12261 of 2018

Ashish Bharti @ Rocky Jha Son of Late Narendra Jha, Resident of Mauza-
Rajguru, Tarapur, P.O. and P.S.- Tarapur, District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Circle Officer, Tarapur, Munger.

... .. Respondent/s

Appearance:

For the Petitioner/s : Mr. Sudhir Kumar Bijpuria, Advocate

For the Respondent/s : Mr. Md. Khurshid Alam, AAG-12

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

CAV JUDGMENT

Date: 04-10-2024

The present writ petition has been filed for quashing the notice dated 18.06.2018 issued by the Circle Officer, Tarapur, Munger i.e. the respondent no. 2, in connection with Encroachment Case No. 10 of 2018-19, by which the petitioner has been informed that he has encroached over Plot No. 126 admeasuring 37' x 72', hence he should remove the encroachment by 03.07.2018.

2. The brief facts of the case, according to the petitioner, are that the land appertaining to Khata No. 87, Plot No. 126, Mauza-Rajguru, Tarapur,



District-Munger was acquired by the grandfather of the petitioner by a registered sale deed dated 21.07.1973, executed by one Kaushandra Prasad for a piece of land admeasuring 7 decimal. Thereafter, Jamabandi bearing Jamabandi No. 453 was created in favor of the grandfather of the petitioner, namely, Baikunth Jha and since then rent is being paid to the State of Bihar. It is further submitted that without considering the aforesaid aspect, the respondent no. 2, vide the aforesaid notice dated 18.06.2018, has directed the petitioner to remove the encroachment in question and moreover, no encroachment proceeding has been actually initiated, hence the aforesaid notice dated 18.06.2018 is fit to be set aside.

3. *Per contra*, the learned counsel for the respondent-State has submitted, by referring to the counter affidavit, filed in the present case that the petitioner has not explained as to how the executant of the aforesaid sale deed dated 21.07.1973 had acquired right, title and interest upon the land in question, however, the fact



remains that the aforesaid land in question has already been acquired long back vide Land Acquisition Case No. 06 of 1954-55, by following the provisions contained in the Land Acquisition Act, 1894, vide Declaration No. 1732 dated 25.03.1954, for the purposes of Tarapur-Kharagpur Road Development scheme. The learned counsel for the respondent-State has further submitted that creation of Jamabandi, being claimed by the petitioner, is not supported with any mutation case, hence the same has not been created in accordance with law, nonetheless, it is stated that no proof of existence of any Jamabandi, in the name of the petitioner has been brought on record by the petitioner. Lastly, it is submitted that the Circle Officer, Tarapur, Munger has already passed a final order dated 18.06.2018 under Section 6(1) of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as the 'Act, 1956'), in the aforesaid Encroachment Case No. 10 of 2018-19, holding the petitioner and others to be encroachers. Thus, it is submitted that in case the



petitioner is aggrieved, he can prefer an appeal under Section 11 of the Act, 1956.

4. I have heard the learned counsel for the parties and perused the materials on record, from which this Court finds that the petitioner has not produced even a chit of paper in his favor so as to lay his claim over the land in question and merely a rent receipt of the year 1984-85, issued in favor of one Baikunth Jha and not in the name of the petitioner, has been annexed to the writ petition from which Thana number, Khata number and Khesra number are also not decipherable, hence the same is of no significance.

5. It is a well settled law that mere issuance of rent receipts cannot create title to the land and can neither prove title nor possession with respect to the land in question. In this regard, reference be had to a judgment dated 15.12.2015, passed by the learned Division Bench of this Court in LPA No. 34 of 2015 (**State of Bihar & Ors. vs. Chandrabanshi Singh**) as also to a judgment dated 05.10.2005, rendered by a co-ordinate



Bench of this Court, in the case of ***Tripathy Kiran Nath Sharma vs. State of Bihar***, reported in ***(2005) 4 PLJR 670***. It would be gainful to refer to a recent judgment dated 10.05.2024, rendered by the learned Division Bench of this Court, in the case of ***S. M. Ehteshamul Hasan Rehmani vs. the State of Bihar & Ors.*** (LPA No. 1106 of 2023 and analogous case), paragraph no.19 whereof is reproduced herein below:-

“19. It is well settled that acceptance of rent by the State Government or issuing rent receipt does not create a title over the land. Thus, the claim of the appellants based on rent receipts does not make the case of the appellants better. Moreover, there is no estoppel against law. The State is not bound by the acts of its officers, if the same has been done by them outside their authority or power of the public authority to make it. Any action done unauthorizedly and without jurisdiction does not bind the State Government, is well settled law.”

6. It is equally a well settled law that any entry in revenue records or creation of *Jamabandi* does not confer title on a person and that mutation in



revenue records neither creates nor extinguishes title, nor does it have any presumptive value with regard to title. Even, mutation entry does not confer any right, title or interest in favor of a person and the same is only for fiscal purpose. Reference in this connection be had to the following judgments rendered by the Hon'ble Apex Court:-

(i) (2007) 6 SCC 186 (Suraj Bhan & Ors vs. Financial Commissioner & Ors.)

(ii) 2021 SCC OnLine SC 802 (Jitendra Singh vs. State of Madhya Pradesh & Ors.), and

(iii) 2023 SCC OnLine SC 1483 (P. Kishore Kumar vs. Vittal K. Patkar)

7. Having regard to the facts and circumstances of the case, considering the materials available on record and taking into account the law laid down by the Hon'ble Apex Court as also this Court, as referred to herein above in the preceding paragraphs, this Court finds that there is no infirmity in the order dated 18.06.2018, passed by the respondent no. 2 in connection with Encroachment Case No. 10 of 2018-19, holding the



petitioner to be an encroacher, who in any view of the matter also does not possess any document to show that the land in question is a raiyati (private) land of the petitioner, hence I do not find any merit in the present writ petition, thus the same stands dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	AFR
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