

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12968 of 2024

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1. Rajesh Swarnkar, Son of Moti Swarnkar, Resident of Village- Sugma, P.S.- Salakhua, District- Saharsa.
 2. Lalo Swarnkar, Son of Moti Swarnkar, Resident of Village- Sugma, P.S.- Salakhua, District- Saharsa.
 3. Arjun Swarnkar, Son of Moti Swarnkar, Resident of Village- Sugma, P.S.- Salakhua, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
2. The Collector, Saharsa.
3. The Deputy Collector, Land Reforms, Saharsa.
4. The Circle Officer, Banma Itahari, District- Saharsa.
5. Mina Devi, Wife of Kashi Sah, Resident of Village- Sugma (Banma O.P.), P.S.- Saharsa, District- Saharsa.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Advocate
For the Respondent/s : Mr. Vishambar Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 02-09-2024 Heard the parties.

2. The petitioners are aggrieved by the order dated 13.01.2023 passed in B.L.T. Case No. 491 of 2018 by the learned Chairman, Bihar Land Tribunal by which the learned Tribunal has set aside the order dated 12.02.2018, passed by the learned Collector, Saharsa in Basgit Parcha Appeal No. 23 of 2013 preferred by the respondent no. 5 whereby the learned Collector, Saharsa has approved the Basgit Parcha issued in favour of petitioner by the Circle Officer, Banma Itarhi.



3. Learned Senior Advocate while assailing the order passed by the learned Bihar Land Tribunal, has vigorously contended that the impugned order has been passed on placing reliance upon a judgment passed in Title Suit No. 42 of 2010, which was affirmed by Appellate Court in Title Appeal No. 11 of 2016, despite the fact that against the order passed in the Title Suit and the appeal, the petitioner has already preferred Second Appeal bearing no. 409 of 2017 wherein the matter has already admitted for hearing after framing substantial question of law.

4. It is fairly submitted that the petitioner has also filed an Interlocutory Application No. 02 of 2023 for staying the proceeding of Execution Case No. 02 of 2017 filed on behalf of plaintiff respondent, pending before the Court of Sub-Judge 2, Saharsa during the pendency of the Second Appeal.

5. On the other hand, learned Advocate for the State drawing the attention of this Court to the impugned order has submitted that be that as it may, the B.L.T. Case No. 491 of 2018 has allowed subject to the final order of the Second Appeal.

6. Having heard the learned Advocate for the parties and taking note of the fact that against the order passed in title suit as well as appeal, the petitioner has already preferred



Second Appeal which is pending adjudication before this Court and the petitioner has already filed an Interlocutory Application for staying the proceeding of Execution Case No. 02 of 2017, the writ petition stands disposed of with an observation that the judgment passed by the Hon’ble Court in pending Second Appeal shall be binding on all the parties and any action taken during the interregnum period shall be subjected to the final outcome of the Second Appeal.

7. The writ petition stands disposed of.

(Harish Kumar, J)

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