

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12637 of 2018

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Bhumi Pandit Son of Late Shibo Pandit, Resident of Village- Gaura, Pandit Tola, Ramganj, P.O.- Sansarpur, Ward No.14, P.S.- Muffasil, District- Khagaria, PIN- 851204.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Divisional Commissioner, Munger Division, Munger.
3. The District Magistrate/Collector, Khagaria.
4. Addl. Collector, Khagaria.
5. Sub-Divisional Officer, Khagaria.
6. Circle Officer-Khagaria, District- Khagaria.
7. Janardan Pandit, Son of Late Brahmdeo Pandit,
8. Chulho Pandit, Son of Jhaksu Pandit,
9. Mukesh Pandit, Son of Late Narayan Pandit,
10. Sikandra Pandit, Son of Late Jago Pandit,
11. Rajaram Pandit, Son of Late Dina Pandit,
12. Anil Pandit, Son of Late Raj Kumar Pandit,
13. Mahesh Pandit, Son of Late Bihari Pandit,
14. Prakash Pandit, Son of Late Dhyani Pandit,
15. Bijay Pandit, Son of Surya Narayan Pandit,
16. Subodh Sah, Son of Late Jagdish Sah,
17. Aajo Ram, Son of Late Janak Ram,
18. Lalan Ram, Son of Late Mahendra Ram, All are resident of Village- Gaura, Pandit Tola, Ramganj, Ward No.14, P.S.- Muffasil, P.O.- Sansarpur, District- Khagaria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dronacharya, Adv.
For the Respondent/s : Mr.Sajid Salim Khan -SC 25

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
Date : 12-12-2024

In the instant writ petition, petitioner has prayed for
the following relief (s) :-

“For Issuance of an appropriate writ(s)/



order(s) or direction and thereby to Issue a writ in the nature of 'Certiorari' and thereby to quash the order dated 10/01/18 passed by the learned Addl. Collector, Khagaria in Case No. 521110107101702298/1A by which he had not passed any order either to issue or not to Issue rent receipt in favour of petitioner as well as the order dated 3/4/18 passed by learned Collector, Khagaria, who also did not pass any order with regard to issuance of Rent receipt and thereby directed the petitioner to appear before the Addl. Collector, Khagaria In Jamabandi Cancellation Case No.44/2017-18 and to produce all the evidence and case before him. And further to Issue a writ in the nature of mandamus directing the respondent authorities to issue rent receipt in favour of petitioner for the lands in question over which his right, title, interest & possession from last several decades before vesting of Jamindari by the operation of Bihar Land Reform Act, 1950."

2. Learned counsel for the petitioner submits that petitioner is owner of a piece of land appertaining to Tauzi No. 549, Khata No. 325, Khesra No. 197, area 7 katha 7 dhurs situated at Mauza Gaura Shakti, P.S. & District- Khagaria.



Petitioner has been settled with this land by ex-landlord through Parwana dated 10th Baisah Fasali, 1352 equivalent to year 1945 A.D.. Learned counsel submits that rent receipts, as contained in Annexure-2 (series), have been issued up to the year 2015, but thereafter rent receipts are not being issued by the authority concerned. Learned counsel further submits that with regard to the land in question, Title Suit No. 58 of 2016 is pending before the learned Sub Judge, Khagaria between the petitioner and respondent no. 7 and others.

3. Learned counsel for the State submits that if a civil suit is pending between the parties with regard to the land in question, no parallel proceeding is allowed to continue.

4. In the view of aforesaid facts and circumstances, it is admitted position that a title suit is pending between the parties before the competent Court and where disputed aspect in involved writ petition is not maintainable.

5. The Hon'ble Supreme Court in catena of judgments has held that regular suit is appropriate remedy for settlement of dispute relating to property rights between private persons. The remedy under Article 226 of the Constitution shall not be available except where there is violation of some statutory duty on the part of statutory authority is alleged. It is held that the



High Court cannot allow its constitutional jurisdiction to be used for deciding disputes, for which remedies under the general law, civil or criminal are available. The jurisdiction under Article 226 of the Constitution being special and extra-ordinary should not be exercised casually or lightly on mere asking by the litigant. In this context, the decision of the Hon'ble Supreme Court in the case of ***Sohan Lal Vs. Union of India & Anr.*** reported in ***AIR 1957 SC 529*** and in the case of ***Radhey Shyam & Anr. Vs. Chhabi Nath and Ors***, reported in ***(2015) SCC 423*** are quite relevant.

6. In the case of ***Sohan Lal (supra)***, Hon'ble Supreme Court has observed as under :

“We do not propose to enquire into the merits of the rival claims of title to the property in dispute set up by the appellant and Jagan Nath. If we were to do so, we would be entering into a field of investigation which is more appropriate for a Civil Court in a properly constituted suit to do rather than for a Court exercising the prerogative of issuing writs. These are questions of fact and law which are in dispute requiring determination before the respective claims of the parties to this appeal can be decided. Before the property in dispute can be restored to



Jagan Nath it will be necessary to declare that he had title in that property and was entitled to recover possession of it. This would in effect amount to passing a decree in his favour. In the circumstances to be mentioned hereafter, it is a matter for serious consideration whether in proceedings under Art. 226 of the Constitution such a declaration ought to be made and restoration of the property to Jagan Nath be ordered.”

7. In the case of **Radhey Shyam (supra)**, Hon’ble Supreme Court in paragraphs 64 and 65 has observed as under :

“64. However, this Court unfortunately discerns that of late there is growing trend amongst several High Courts to entertain writ petition in cases of pure property disputes. Disputes relating to partition suits, matters relating to execution of a decree, in case of dispute between landlord and tenant and also in a case of money decree and in various other cases where disputed question of property are involved, writ courts are entertaining such disputes. In some cases the High Courts, in a routine manner, entertain petitions under Article 227 over such disputes and such petitions are treated as writ petitions.



65. We would like to make it clear that in view of the law referred to above in cases of property rights and in disputes between private individuals writ court should not interfere unless there is any infraction of statute or it can be shown that a private individual is acting in collusion with a statutory authority.”

8. In the light of the discussion made above, the said aspect cannot be decided in writ jurisdiction and the appropriate remedy, in the facts and circumstances of the case, is before the Civil Court. Petitioner has not made out a case. Accordingly, the present writ petition is disposed of as not maintainable.

(Alok Kumar Pandey, J)

mcverma/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.12.2024
Transmission Date	NA

