

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20985 of 2021

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Suresh Prasad Singh Son of Kamta Nath Singh Resident of B-2, Satsang Colony, Murar, P.O. and P.S.- Murar, Buxar, Bihar and presently residing at 6/73, Soami Nagar, Dayal Bagh, Agra, Uttar Pradesh 282005.

... .. Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary, Department of Revenue and Land Reforms.
2. The Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
3. The Collector-cum- District Magistrate Gaya.
4. The Additional Collector Gaya.
5. The Deputy Collector Land Reforms Sadar, Gaya.
6. The Circle Officer Belaganj, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Priyank Samdarshi
For the Respondent/s : Md. Khurshid Alam (AAG-12)
Mr. Asif Kalim, AC to AAG-12

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 3 10-12-2024 1. Heard learned counsel for the petitioner and learned AC to AAG-12, Shri. Asif Kalim.
2. In compliance of the order dated 9-12-2024, the Circle Officer, Belaganj, Gaya, is present in the Court.
3. The learned counsel for the petitioner submits that petitioner's family had purchased land pertaining to C.S. Khata No.23, C.S. Plot No.119, Area 3.20 ¼ Acres at village Alam Bigha, P.S. Belaganj, Gaya vide registered sale deed dated 15.11.1978 (Annexure-1) executed by Mahesh Prasad Shahi, son of Shyama Prasad Shahi in favour of Tara Sinha and others



including the petitioner, it is submitted that after execution of the sale deed, Jamabandi was created and rent receipts (Annexure-2) was issued. The learned counsel next submits that the aforesaid land was recorded as Gairmazarua Maalik in C.S. Khatian, after revenue survey, the Khatian was revised with corresponding R.S. Khata No.59, R.S. Plot No.159 in place of C.S. Khata No.23, C.S. Plot No.119 and the land in the revisional survey was recorded as Anabad Bihar Sarkar instead of Gairmazarua Maalik as recorded in the C.S. Khatian.

4. It is further submitted that the land pertaining to C.S. Khata No.23, C.S. Plot No.119, Area 5.59 ½ Acres was orally settled to Mahesh Prasad Shahi (vendor of the petitioner) accompanied by delivery of possession by the then Zamindar namely Mahabir Prasad Singh by a sada Hukumnama dated 27 alsakh 1350 fasali and he was also granted Zamindari Rent Receipts.

5. It is submitted that Tara Sinha sold part of the land from the said plot to Ramrati Devi and others, the purchasers applied for getting their jamabandi created of their purchased land, but the prayer was refused on the ground that the land belongs to the government, accordingly, Ramrati Devi and others filed T.S. No.155/1993 for declaration of their title and



permanent injunction restraining the defendants from disturbing the peaceful possession of the plaintiff over the suit land.

6. It is submitted that on account of incorrect entry made in the revenue survey with regard to the land, a portion of the said land was settled with Ramphal Dushadh and others on paper only, but they never came in possession over the land settled with them, while T.S. No.155/1993 was decreed in favour of Ramrati Devi and other vide Judgment dated 29.03.2000 passed by the learned Court of Munsif-III, Gaya confirming the right, title and interest of the plaintiff over their purchased land, declaring the said land as Anabad Bihar Sarkar as recorded in R.S. Khatiyar as invalid, illegal and incorrect, thereafter the Circle Officer created Jamabandi over the land purchased by Ramrati Devi and others from Tara Sinha.

7. The learned counsel submits that the petitioner is husband of Tara Sinha. It is next submitted that petitioner and Tara Sinha had also applied for creating jamabandi over their purchased land but their prayer was refused by the Circle Officer. It is submitted that it absolutely does not stand to reason that when Circle Officer created jamabandi in the name of Ramrati Devi who had purchased the land in question from Tara Sinha after she obtained decree in her favour by a competent



Civil Court then on what basis the Circle Officer, Belaganj, Gaya is refusing to mutate the name of the petitioner over their purchased land. It is next submitted that it is a settled principle of law that once the learned court has decided the case with regard to title in favour of one person, the same shall follow in case of others also. It is next submitted that the case of the petitioner is on a better footing than Ramrati Devi.

8. The learned counsel appearing on behalf of the State fairly submits that what has been submitted by the learned counsel appearing on behalf of the petitioner cannot be disputed provided the submission made by the learned counsel for the petitioner is factually correct as per records.

9. Learned counsel appearing on behalf of the State based on instruction of the Circle Officer submits that the land purchased by Ramrati Devi from Tara Sinha was never mutated in her name, nor any document has been brought on record by the petitioner to even remotely suggest that the purchased land of Ramrati Devi from Tara Sinha has been mutated.

10. It is further submitted that from perusal of Annexure-3 series at page 39 of the writ application, it would manifest that Tara Sinha and others had filed Rent Fixation Case No. 71 of 2018-19 in the court of Additional Collector, Gaya



with regard to their purchased land for getting the rent fixed, and the same came to be dismissed by an order dated 4.10.2018 with a direction to the D.C.L.R and the Circle Officer to file title appeal against the judgement and decree passed in Title Suit No. 155/1993.

11. The learned counsel appearing on behalf of the State next submits that the order passed by the Additional Collector in Rent Fixation Case No. 71 of 2018-19 dated 4-10-2018 is not under challenge. It is further submitted that whether the rent fixation case was decided by the Additional Collector, correctly or incorrectly, can be adjudicated only if the same is challenged in accordance with law before a competent forum, but in absence of any challenge, the Circle Officer, being an officer subordinate to the Additional Collector, cannot mutate the land in dispute in favour of the petitioner, being husband of Tara Sinha.

12. At this stage, learned counsel for the petitioner seeks permission to withdraw the writ application with liberty to assail the order passed by the Additional Collector in Rent Fixation Case No. 71 of 2018-19, in accordance with law.

13. Permission is accorded.

14. Accordingly, the instant writ application is



dismissed as withdrawn with liberty aforesaid.

15. The personal appearance of the Circle Officer,
Belaganj, Gaya is dispensed with.

(Satyavrat Verma, J)

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