

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17242 of 2024

Rajesh Kumar Yadav Son of Laldev Prasad Resident of Tarwan, P.S - Mufsil
Siwan, District – Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. The Commissioner, Saran Division, Chapra.
3. The Deputy Collector, Land Reforms, Siwan, Chapra.
4. Sri Jawahar Prasad Son of Jodha Shah Resident of Village-Mahadeva
Salempur, P.O.-Siwan, P.S.-Mahadeva Salempur, District-Siwan.
5. Sri Bharat Shah Son of Jodha Shah Resident of Village-Mahadeva Salempur,
P.O.-Siwan, P.S.-Mahadeva Salempur, District-Siwan.
6. Vidhanti Devi Wife of Late Hira Singh Resident of Village-Mahadeva
Salempur, P.O.-Siwan, P.S.-Mahadeva Salempur, District-Siwan.
7. The Registrar, The Bihar Land Tribunal, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Pankaj Kumar, Adv.
For the Respondent/s : Mr. Standing Counsel (6)

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 14-11-2024

In the instant petition, the petitioner has prayed for
following reliefs:-

i. For the issuance of an appropriate writ in the nature of certiorari for quashing the order dated 6.9.2024 passed in BLT case no. 111 of 2024 by the Learned Hon'ble Chairman Bihar Land Tribunal, Patna whereby and where under Hon'ble Chairman BLT has been pleased to dismissed the BLT case no. 111 of 2024 filed by the petitioner.

ii. Further for issuance of an



appropriate writ in the nature of certiorari for quashing the order dated 20.10.2023 passed in appeal no. 78/2023 passed by the respondent commissioner whereby and where under respondent commissioner has been pleased to dismiss the appeal filed by the appellant/petitioner.

iii. Further for setting aside the order dated 3.2.2023 passed by the respondent DCLR in BLDR case no. 49/2022-23 wherein respondent DCLR has been pleased to dismiss the BLDR case no. 49/2022-23 filed by the appellant/petitioner.

iv. Further for issuance of an appropriate writ in the nature of MANDAMUS commanding and directing the respondent authority to ensure the recovery of possession of the petitioner by dispossessing the respondent no. 4, 5 and 6 who were taken the land in question on rent appertaining to khata no. 131, khesra no. 391, an area 0-0-12 Dhur situated in Mauza Mahadeva Salempur in the village Tarwan, p.s. Mufsil Siwan, district- Siwan.

v. For issuance of any other writ/writs, order/orders, direction/directions, for which the petitioner shall be found entitled under the facts and circumstances of the case as stated herein below for the ends of equitable justice.

2. Learned counsel for the petitioner submits that his bone of contention is with regard to possession over the land situated at Khata No.131, Khesra No.391, Area 12 Dhur which is



registered in the name of the father of the petitioner. Learned counsel submits that the said land was purchased by the father of the petitioner on 19.02.1987 and rent receipt was also issued in the name of father of the petitioner. He further submits that the land in question run in name of the father of the petitioner and the same is joint family property. The father of the petitioner constructed house over the land in question and after request of respondent nos. 4 and 5 it was given on rent in the year 1992 on monthly rent of Rs.3,000/- and after death of the father of the petitioner, the dispute arose as the respondent nos. 4 and 5 tried to capture the said property. Learned counsel for the petitioner further submits that the petitioner is a bona fide owner of the land in question and there is no dispute with regard to title of the property and the respondent nos. 4 & 5 are the rent holder of the property and there is no any document which indicates that the opposite parties are owner of the said land.

Learned counsel further submits that the petitioner approached the Sub-Divisional Public Grievance Officer, Siwan and vide order dated 17.06.2022 (AnnexureP/3) certain observation was made for resolving the dispute and further he approached before the 1st Appellate Authority-Cum-Additional District Collector, Siwan and the same was rejected by the concerned authority on 01.10.2022 (Annexure-P/4) on the ground



that the Opposite Parties are in possession of the said land since 35-36 years. Thereafter, petitioner filed BLDR Case No. 49 of 2022-23 before the DCLR, Sadar, Siwan which was disposed of by order dated 03.02.2023 (Annexure-P/6) with certain observation. Against the said order of DCLR, petitioner filed appeal before the Commissioner in BLDR Appeal No. 78 of 2023, which was dismissed vide order dated 20.10.2023 (Annexure-P/7). Petitioner, lastly filed case in Bihar Land Tribunal bearing BLT Case No. 111 of 2024, which has also been dismissed vide order dated 06.09.2024 (Annexure-P/8) with liberty to the petitioner to file Civil Suit in Civil Court for redressal of his grievance. He further submits that order of DCLR is affirmed by the Commissioner as well as BLT. Hence, the present writ petition.

3. Learned counsel for the State submits that there is dispute between the parties over the land in question and the petitioner has approached before the DCLR which has clearly given observation that the said matter could not be decided within BLDR Act and the aforesaid order is affirmed by the Commissioner as well as BLT and further submits that that there is a dispute between both the parties regarding title of land in question. In this way, the order passed by the concerned authorities are justified and legal and the petitioner has not made out a case to entertain the writ petition. In the light of aforesaid facts, the



present writ is not maintainable as the said matters are related to the disputed aspect which can be decided by the competent court and petitioner has not availed the said forum for the redressal of his grievance.

4. From the perusal of the material available on record, it is crystal clear that there is dispute between the parties with respect to title over the land in question and same is also evident from the order of BLT. The order of BLT clearly mentioned that there is a dispute of title between the parties with respect to property in question. Petitioner is claiming title over the land in question and other parties are also claiming title over the land in question. 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 extraordinary and it 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 Indian & 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.

5. 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.”



6. 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.”

7. In the light of the discussion made above, disputed aspect with respect to title over a land cannot be decided in writ jurisdiction. Accordingly, the present writ petition stands



disposed of as not maintainable.

8. However, dismissal of writ would not be hurdle for the petitioner to approach appropriate forum for redressal of his grievance within a period of four weeks from the date of receipt of this order.

(Alok Kumar Pandey, J)

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AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	16.11.2024
Transmission Date	N/A

