

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17990 of 2024

=====

Satya Narayan Yadav Son of Late Babu Ram Yadav, Resident of Village -
Rasulpur, P.O. - Bindusar, Police Station - Siwan Muffasil, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Collector-cum-District Magistrate, Siwan.
3. The Additional Collector (A.D.M.), Siwan.
4. The Deputy Collector, Land Reforms, Siwan Sadar (Siwan).
5. The Anchal Adhikari, Pachrukhi (Siwan).
6. Smt. Savitri Devi, W/o Harendra Prasad, resident of Village - Rasulpur, Police Station - Siwan Muffsil, District- Siwan.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Suraj Narain Yadav, Adv.
For the Respondent/s : Mr.Government Advocate (13)

=====

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 28-11-2024

Heard the parties.

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

*1. For issuance of a writ
in the nature of Certiorari to quash the Order
dated 29.07.2024 passed by the Bihar Land
Tribunal, Patna in B.L.T. Case No. 28/2023
whereby the case has been allowed and the Order
dated 24.05.2022 passed by learned Additional
Collector, Siwan in Mutation Revision Case No.
115/2020-21 has been set aside and further for
issuance of writ in the nature of Mandamus and/or
any other appropriate writ, order or direction to
the respondents to cancel the Jamabandi illegally*



created in the name of Respondent no.6 on the basis of forged and fabricated Sale-deed.

3. Learned counsel for the petitioner has submitted that in the present writ, land appertaining to Khata no. 2, Plot No. 785 Area 6 katha out of total area of 3 Bigha 4 Katha i.e. 64 Katha situated in Village Rasulpur, Circle Panchrukhi, District Siwan is disputed land in question. He further submits that Mutation Case No. 3209/R-27 of 2019-20 has been decided by Circle Officer, Panchrukhi in favour of respondent no. 6 and when petitioner came to know about the order of mutation of land in question in favour of respondent no. 6, he preferred appeal vide Mutation Appeal No. 88 of 2020-21 before the D.C.L.R., Siwan Sadar but the said appeal was dismissed on 11.02.2021 affirming the order passed by the concerned Circle Officer. He further submits that against the order dated 11.02.2021 passed by D.C.L.R., Siwan Sadar, the petitioner filed revision vide Mutation Revision No. 115/ 2020-21 before the respondent no.3/ Additional Collector, Siwan and report was called for, from the D.C.L.R., Siwan Sadar, who enquired into the matter and it is found that sale deed bearing no. 4370 dated 11.09.1974 is forged document and on the basis of forged sale deed, the respondent no. 3/ Additional Collector vide order dated 24.05.2022 has set aside the order dated 11.02.2021



passed in Mutation Appeal No. 88/ 2020-21. He further submits that against the order of Additional Collector, Siwan, respondent no. 6 filed B.L.T. Case No. 28 of 2023 before the Bihar Land Tribunal, Patna and the B.L.T., Patna vide order dated 29.07.2024 set aside the order passed by the Additional Collector, Siwan on the ground that Revisional Court does not have any jurisdiction to decide the sale deed no. 4370 dated 11.09.1974.

4. Learned counsel on behalf of the State has submitted that from perusal of order passed by Bihar Land Tribunal, Patna, it is evident that two title suits i.e. Title Suit No. 137 of 2020 and Title Suit No. 530 of 2021 are pending in the court of Sub Judge, Siwan with regard to the disputed land in question. He further submits that whenever title suit is pending before the competent court no parallel proceeding would be allowed to continue and as such, the present 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 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 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 discussions made above and the facts and circumstances of the case, the present writ petition is not maintainable and same stands dismissed.

(Alok Kumar Pandey, J)

shahzad/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	29.11.2024
Transmission Date	N.A.

