

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23557 of 2019

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1. Rajni Ranjan Chaubey Son of Late Krishna Chaubey Widow of Late Shiv Narain Chaube, Resident of Village Usupur Hajipur, Police Station Hajipur, District-Vaishali at Present Muhalla Chauhatta, P.S. Town Hajipur, P.O. Hajipur, District Vaishali
 2. Pappu Chaubey Son of Late Krishna Chaubey Widow of Late Shiv Narain Chaube, Resident of Village Usupur Hajipur, Police Station Hajipur, District-Vaishali at Present Muhalla Chauhatta, P.S. Town Hajipur, P.O. Hajipur, District Vaishali

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Bihar Land Tribunal, Patna.
3. The Collector, Nalanda.
4. The Land Reforms Deputy Collector, Hilsa, Nalanda.
5. The Anchal Adhikari, Parwalpur, Nalanda.
6. Smt. Supriya Upadhyay Wife of Late Dr. Srinivas Upadhyay Resident of C/o Dr. S.K. Choudhary, Gorakh Nath Lane, Boring Road, Police Station Sri Krishna Puri. Town and District Patna.
7. Rohit Anand Son of Late Dr. Srinivas Upadhyay Resident of C/o Dr. S.K. Choudhary, Gorakh Nath Lane, Boring Road, Police Station Sri Krishna Puri. Town and District Patna.
8. Rahul Anand Son of Late Dr. Srinivas Upadhyay Resident of C/o Dr. S.K. Choudhary, Gorakh Nath Lane, Boring Road, Police Station Sri Krishna Puri. Town and District Patna.
9. Padma Choubey Wife of Late Suraj Narayan Choubey, Daughter of Late Birmani Upadhyay Resident of Muhalla Chauhatta, Police Station Town Hajipur, District-Vaishali
10. Kiran Pandey Wife of Sri Ganesh Pandey Daughter of Late Ramesh Upadhyay, Resident of Pathyapustak Colony, Meshri Nagar, Patna-24 at Present 637 Chevier, Way Ottawa Ontario, Canada Postal Code K. Y.A. I.R.S.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Tej Narayan Singh, Advocate Mr.Santosh Kumar Sinha 2, Advocate
For the Respondent/s	:	Mr.Rajendra Prasad, Sr. Advocate Mr.Promod Kumar, Advocate Mr.Ritesh Kumar, Advocate Miss. Srishti, Advocate
For the State	:	Mr. Dhurjati Kr. Prasad, G.P.14

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY



ORAL JUDGMENT

Date : 27-11-2024

In the instant petition, petitioners have prayed for the following relief(s):-

That this is an application praying for issuance of a writ in the nature of certiorari quashing the impugned order dated 20.5.2016 passed in B.L.T. Case No. 806 of 2015 by Sri K. P. Ramaiah, Member Administrative, Bihar Land Tribunal, Patna, and, further for issuance of an appropriate writ, order or direction upholding the order dated 15.05.2015 passed by the Additional Collector-cum-Additional District Magistrate, Nalanda in Mutation Revision Case No. 14 of 2012-13 whereby and where under the order passed by the Circle Officer and DCLR have been quashed owing to the fact that those orders have been passed during pendency of Title Suit No. 25 of 2003 pending adjudication in the Nalanda court of learned Sub Judge-1, Hilsa, Nalanda.

2. Learned counsel for the petitioners submit that respondent nos. 6, 7 and 8 filed Mutation Case No. 526 of 2009-10, which was allowed vide order dated 31.10.2009 passed by the Circle Officer, Parwalpur, Nalanda. Against the said order, the mother of the petitioners, Padma Choubey and one Kiran Pandey approached the Deputy Collector Land Reforms, Hilsa in Appeal Case No. 05/2010-11 which was dismissed vide order dated 19.03.2012 and the order passed by the Circle Officer, Parwalpur,



Nalanda was upheld. The mother of the petitioners and others filed Mutation Revision Case No. 14 of 2012-13 before the Additional Collector-cum-Additional District Magistrate, Nalanda which was allowed by order dated 15.05.2015 and the order passed by the Circle Officer, Parwalpur and DCLR, Nalanda was set aside. Thereafter, respondent nos. 6, 7 & 8 approached the Bihar Land Tribunal, Patna in BLT Case No. 806 of 2015 and on 20.05.2016, BLT has set aside the order dated 15.05.2015 passed by the Additional Collector, Hilsa, Nalanda and confirmed the order passed by the Circle Officer as well as the DCLR, Hilsa, Nalanda.

3. Learned counsel on behalf of the State submits that there is dispute between the parties with regard to title over the land in question for which Title Suit No. 25 of 2003 is pending before the learned Sub Judge – I, Hilsa, Nalanda and as such the present writ petition is not maintainable.

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 all the issues are related to the title of the land in question. Petitioners are 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 with direction to the parties concerned to pursue the matter before the appropriate forum.

8. Pending I.A.s, if any, stands disposed of.

(Alok Kumar Pandey, J)

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

