

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8582 of 2018

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Devisharan Mishra S/o Ramdeo Mishra, R/o-Khap Mishrauli, P.O.-Sahpur,
P.S.-Nautan, District-Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar through the District Magistrate-cum-Collector, Siwan,
District- Siwan
2. The District Magistrate-Cum-Collector, Siwan, District-Siwan.
3. The Deputy Collector Land Reforms, Siwan, District-Siwan.
4. The Sub-Divisional Officer, Siwan Sadar, Siwan.
5. The Circle Officer, Nautan, P.S.-Mairwa, District-Siwan.
6. Madhusudan Sharma, S/o-Ram Jatan Sharma, R/o-Khap Mishrauni, P.O.-
Sahpur, P.S.-Nautan, District-Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Vishwajeet Kumar Mishra & Mr.Rohit Kumar Tripathi, Advocates
For the Respondent/s	:	Mr.Dhurjati Kr. Prasad, G.P. 14

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 17-10-2024 In the instant writ petition, the petitioner has prayed
for the following relief(s) :-

“For issuance of an appropriate writ/order/direction quashing the settlement done in favour of respondent no. 6 vide record no. 05/02-03 regarding Khata No. 87, Khesra No. 360, Area 3 decimal. The settlement has been confirmed vide letter no. 634 dated 27.10.2009.

For issuance of an appropriate writ/order/direction upon the respondent State officials and respondent no. 6 to restrain from disturbing and dispossessing the petitioner from his purchased land.

For any other appropriate writ/order/direction



to which he is found entitled to.”

2. Learned counsel for the petitioner has submitted that respondent State officials and respondent no. 6 be restrained from disturbing and dispossessing the petitioner from his purchased land. Petitioner has purchased the land from the rightful owner on 09.05.2013 and by virtue of letter no. 634 dated 27.10.2009, the settlement has been confirmed and land has been settled in favour of respondent no. 6.

3. Learned counsel for the State submits that in the present matter the land in question has been involved with title dispute and same is pending before the Sub-Judge I, Siwan in Title Suit No. 376 of 2017 for declaration of right, title and interest. Learned counsel for the petitioner has also admitted this fact in para 10 of the writ petition.

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. It is well settled that once a title suit is pending with regard to the a land, no Court has jurisdiction to adjudicate the matter. 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, 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)

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