

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 12292 of 2018

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Usha Devi W/o late Vimal Jha Resident of Gorgama, Gorgama, Tarapur, P.O.
and P.S. Tarapur, District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Circle Officer, Tarapur, Munger.

... .. Respondent/s

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Appearance:

For the Petitioner/s : Mr. Sudhir Kumar Bijpuria, Advocate

Mr. Anil Kumar Gupta, Advocate

For the Respondent/s : Mr. Sajid Salim Khan, SC-25

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

CAV JUDGMENT

Date: 04-10-2024

The present writ petition has been filed for quashing the notice dated 18.06.2018, issued by the Circle Officer, Tarapur, Munger i.e. the respondent no. 2, in connection with Encroachment Case No. 10 of 2018-19, by which the petitioner has been informed that Plot No. 7 admeasuring 28' x 8' has been encroached by him, hence the encroachment should be removed by 03.07.2018.

2. The learned counsel for the petitioner has submitted that the petitioner is a landless lady who



is daughter-in-law of late Gangadhar Jha, in whose favor the respondent no. 2 had issued *Basgit Parcha* on 04.08.1976 and since then rent is being paid to the State of Bihar. It is stated that Jamabandi exists in the name of the deceased father-in-law of the petitioner, however, without considering the aforesaid facts the respondent no. 2 has issued the impugned notice dated 18.06.2018. Thus, it is submitted that the aforesaid notice dated 18.06.2018 be quashed.

3. *Per contra*, the learned counsel for the respondent-State has submitted, by referring to the counter affidavit filed in the present case that the Jamabandi in question is admittedly not existing in the name of the petitioner and even if it is to be believed that it was created in the name of the father-in-law of the petitioner, after his death, it is required to be proved as to who is the actual legal heir and who has inherited the land in question. It is further submitted that the respondent no. 2 had directed the Anchal Amin, Tarapur to submit measurement report along with



the map, by measuring the area near Tarapur-Kharagpur Road, whereafter the Anchal Amin had submitted a report that 28' x 25' of government land has been encroached, whereupon the respondent no. 2 had issued notice to several encroachers including the writ petitioner to remove the encroachment in question. Thereafter, several encroachers had filed their objections, however, the petitioner did not file any objection as also she did not choose to contest the encroachment proceedings initiated by the respondent no. 2, i.e. the one bearing Encroachment Case No. 10 of 2018-19.

4. The learned counsel for the respondent-State has further submitted that the land in question, appertaining to Mauza-Tarapur, Thana No. 196, Khesra No. 7, has been acquired long back vide Land Acquisition Case No. 06 of 1954-55, by following the provisions contained in the Land Acquisition Act, 1894, vide Declaration No. 1732 dated 25.03.1954, for the purposes of Tarapur-Kharagpur Road Development scheme. Lastly, it is



submitted that the Circle Officer, Tarapur, Munger has already passed the final order dated 18.06.2018, under Section 6 (1) of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as the 'Act, 1956'), in the aforesaid Encroachment Case No. 10 of 2018-19, holding the petitioner and others to be encroachers. Thus, it is submitted that in case the petitioner is aggrieved, she can prefer an appeal under Section 11 of the Act, 1956.

5. I have heard the learned counsel for the parties and perused the materials on record, from which this Court finds that the petitioner has not produced even a single chit of paper in her favor so as to lay her claim over the land in question and merely a rent receipt of the year 1999-2000, issued in favor of one Gangadhar Jha and not in the name of the petitioner, has been annexed to the writ petition, from which Thana number, Khata number and Khesra number are also not decipherable, hence the same is of no significance.



6. It is a well settled law that mere issuance of rent receipts cannot create title to the land and can neither prove title nor possession with respect to the land in question. In this regard, reference be had to a judgment dated 15.12.2015, passed by the learned Division Bench of this Court in LPA No. 34 of 2015 (**State of Bihar & Ors. vs. Chandrabanshi Singh**) as also to a judgment dated 05.10.2005, rendered by a co-ordinate Bench of this Court, in the case of **Tripathy Kiran Nath Sharma vs. State of Bihar**, reported in **(2005) 4 PLJR 670**. It would be gainful to refer to a recent judgment dated 10.05.2024, rendered by the learned Division Bench of this Court, in the case of **S. M. Ehteshamul Hasan Rehmani vs. the State of Bihar & Ors.** (LPA No. 1106 of 2023 and analogous case), paragraph no.19 whereof is reproduced herein below:-

“19. It is well settled that acceptance of rent by the State Government or issuing rent receipt does not create a title over the land. Thus, the claim of the appellants based on rent receipts does not make the case of the



appellants better. Moreover, there is no estoppel against law. The State is not bound by the acts of its officers, if the same has been done by them outside their authority or power of the public authority to make it. Any action done unauthorizedly and without jurisdiction does not bind the State Government, is well settled law."

7. It is equally a well settled law that any entry in revenue records or creation of *Jamabandi* does not confer title on a person, and that mutation in revenue records neither creates nor extinguishes title, nor does it have any presumptive value with regard to title. Even, mutation entry does not confer any right, title or interest in favor of a person and the same is only for fiscal purpose. Reference in this connection be had to the following judgments rendered by the Hon'ble Apex Court:-

(i) (2007) 6 SCC 186 (Suraj Bhan & Ors vs. Financial Commissioner & Ors.)

(ii) 2021 SCC OnLine SC 802 (Jitendra Singh vs. State of Madhya Pradesh & Ors.), and

(iii) 2023 SCC OnLine SC 1483 (P. Kishore Kumar vs. Vittal K. Patkar)



8. Having regard to the facts and circumstances of the case, considering the materials available on record and taking into account the law laid down by the Hon’ble Apex Court as also this Court, as referred to herein above in the preceding paragraphs, this Court finds that there is no infirmity in the order dated 18.06.2018, passed by the respondent no. 2, in connection with Encroachment Case No. 10 of 2018-19, holding the petitioner to be an encroacher, who in any view of the matter also does not possess any document to show that the land in question is a raiyati (private) land of the petitioner, hence I do not find any merit in the present writ petition, thus the same stands dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	AFR
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