

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1687 of 2019

In

Civil Writ Jurisdiction Case No.21200 of 2018

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Ram Bali Yadav @ Rajeshwar Yadav, Son of Late Sidhi Yadav, Resident of Village-Bara Near Chakand Tola, Rahimbigha, P.O. Bara, P.S. Chandauti, District-Gaya.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Chairman, Bihar Land Tribunal, Patna.
3. Divisional Commissioner, Gaya.
4. D.C.L.R. Sadar, Gaya.
5. Circle Officer, Chandauti, Gaya.
6. Rajendra Yadav, Son of Late Hulash Yadav, Resident of Village-Bara Tola Rahimbigha, Near Chakand, P.O. Bara, Via Chakand, P.S. Chandauti, District-Gaya.
7. Ram Kishun Yadav, Son of Late Hulash Yadav, Resident of Village-Bara Tola Rahimbigha, Near Chakand, P.O. Bara, Via Chakand, P.S. Chandauti, District-Gaya.
8. Mahendra Yadav, Son of Late Hulash Yadav, Resident of Village-Bara Tola Rahimbigha, Near Chakand, P.O. Bara, Via Chakand, P.S. Chandauti, District-Gaya.
9. Kameshwar Yadav, Son of Late Ram Prasad Yadav, Resident of Village-Bara Tola Rahimbigha, Near Chakand, P.O. Bara, Via Chakand, P.S. Chandauti, District-Gaya.
10. Ramswaroop Yadav, Son of Late Ram Prasad Yadav, Resident of Village-Bara Tola Rahimbigha, Near Chakand, P.O. Bara, Via Chakand, P.S. Chandauti, District-Gaya.
11. Nathun Yadav, Son of Late Ram Prasad Yadav, Resident of Village-Bara Tola Rahimbigha, Near Chakand, P.O. Bara, Via Chakand, P.S. Chandauti, District-Gaya.
12. Kali Devi, Wife of Late Raja Ram Yadav, Resident of Village-Bara Tola Rahimbigha, Near Chakand, P.O. Bara, Via Chakand, P.S. Chandauti, District-Gaya.
13. Subodh Yadav, Son of Late Raja Ram Yadav, Resident of Village-Bara Tola Rahimbigha, Near Chakand, P.O. Bara, Via Chakand, P.S. Chandauti, District-Gaya.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Mritunjay Prasad Singh, Advocate

For the Respondent/s :

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 25-07-2024

1. Heard learned counsel for the the appellant and learned counsel for the State of Bihar.

2. The writ petitioner-appellant has preferred this appeal against the order dated 21.11.2019 passed in CWJC no.21200 of 2018.

3. The case of the appellant in brief is that R.S. Plot nos. 2624, 2525, 2662, 2663, 2670, 2671, 2672 and 2673 were carved out of C.S. Plot no. 1755. C.S. Plot no.1755 was recorded in the name of the ancestors of the appellant, however, the private respondents have been illegally making claims over the land of R.S. Plot no.2663. They also filed a petition that the appellant had encroached upon the land, their basis being that the same had been purchased by them from the recorded tenant.

4. It is submitted by learned counsel for the appellant that the Deputy Collector Land Reforms ordered for demarcation and wrongly gave possession of Plot no.2663 to the private respondents. As such, a petition was filed by the



appellant under section 106 of the Bihar Tenancy Act, 1885 ('B.T. Act' in short) before the revenue authority, who ordered for correction of the records of rights.

5. It is further case of the appellant that the respondents filed B.L.D.R. Case no.304 of 2013-14 in the Court of D.C.L.R. claiming that R.S. Plot no.2663 had been carved out of C.S. Plot no.1756, which was erroneously allowed by the D.C.L.R. with the observation that the appellant had encroached upon the land. Further direction was given by order dated 30.12.2013 that the land be measured to secure the possession of the private respondents. The appellant preferred B.L.D.R. Appeal no.29 of 2014-15, which was dismissed by order dated 23.12.2015 passed by the Magadh Divisional Commissioner, Gaya. Further, B.L.T. Case no.192 of 2016, preferred by the appellant, was also dismissed by the Tribunal by order dated 2.8.2018. Being aggrieved by the order of the D.C.L.R., the Divisional Commissioner and the Bihar Land Tribunal, the appellant filed CWJC no.21200 of 2018, which was dismissed by order dated 21.11.2019 by the learned Single Judge.

6. It is submitted by learned counsel appearing for the appellant that the learned Single Judge failed to take into consideration the documents brought on record as annexures to



the writ application, especially the order dated 30.6.1986 passed by the revenue authority on an application under section 106 of the B.T. Act. It is submitted that the Tribunal was not justified in passing the order impugned directing the appellant to file a civil suit. As such, the order of the learned Single Judge is not sustainable, the same be set aside and the appeal be allowed.

7. Having perused the material on record and especially the order passed by the learned Bihar Land Tribunal, it transpires that the name of the vendors of the private respondents have been entered in the Revisional Survey *Khatiyar* for the land in question and the private respondents are basing their claim on the registered sale deed dated 20.6.1959 executed by them. The authorities have also found that the *Jamabandi* has been created in the name of the private respondents, their names have been entered in Register-II, they are paying rent and rent receipts are being granted to them. It transpires that the possession of *jamabandi raiyats* was directed to be restored on the land in question.

8. This Court finds that the learned Tribunal gave liberty to the appellant to move the competent civil Court for redressal of his grievances. The learned Single Judge was pleased to dismiss the writ application preferred against the said



order.

9. The Court finds no illegality in the order of the learned Single Judge nor any merit in the instant appeal.

10. The appeal is dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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CAV DATE	
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