

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3221 of 2015

1. Sumitra Devi W/o Binod Kejriwal
2. Binod Kejriwal S/o Late Radhe Krishna Kejriwal
3. Praveen Kejriwal S/o Shri Binod Kejriwal All Resident of Village Barahat, P.O. and P.S. Ishipur, Barahat, Sub-division Kahalgaon, Anchal Pirpainti, District Bhagalpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Divisional Commissioner, Bhagalpur.
3. The District Magistrate cum Collector, Bhagalpur.
4. The Deputy Commissioner Land Reforms, Khahalgau, District Bhagalpur.
5. The Circle Officer, Pirpainti, District Bhagalpur.
6. The Bihar Land Tribunal, Chitkohra, Bihar, Patna through its Registrar.
7. Shiv Kumari Devi W/o Sri Ganesh Soni Resident of Village Barahat, P.O. and P.S. Ishipur, Barahat, Anchal Pirpainti, Sub Division Kahalgaon, District Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Gautam Kumar Kejriwal, Advocate
For the State	:	Mr. Pramod Kumar Yadav, AC to SC-12
For the Resp. No. 7	:	Mr. Bhola Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

11 05-05-2025 On 07.04.2025, an order was passed by the co-ordinate Bench directing the State counsel to file a counter affidavit on behalf of respondent nos. 1 to 5 but today on call, learned Assistant counsel for the State Mr. Pramod Kumar Yadav submits that he has no knowledge whether any order was passed for filing affidavit. It is unfortunate that an order was passed by the co-ordinate Bench on 07.04.2025 directing the State Counsel to file reply but today, the Counsel shows ignorance about it. It means



neither they incorporate the order in the file nor they go through the order on the website. In that background, a cost of Rs.2,000/- is imposed upon the concerned office (S.C.-12) and the amount is to be paid to the Patna High Court Legal Services Committee within a week and receipt has to be filed in the office failing which the Patna High Court Legal Services Committee shall take steps for the realisation of amount in accordance with law.

2. Heard Mr. Gautam Kumar Kejriwal, learned counsel for the petitioners, Mr. Pramod Kumar Yadav, learned counsel for the State and Mr. Bhola Prasad, learned counsel for the respondent no. 7.

3. The present writ application has been filed for following reliefs: -

a) For quashing of the order dt. 10.10.14 passed in the B.L.T. Case No. 446/2014 by the learned Member (Administration), Bihar Land Tribunal confirming the orders passed by the respondent DCLR and Divisional Commissioner Bhagalpur;

b) For quashing of the order dt. 19.04.14 passed by respondent Divisional Commissioner, Bhagalpur in B.L.D.R. Appeal No 159/13 being contrary to the provisions of section 4 of the B.L.D.R. Act 2004;

c) For quashing of the order dt. 27.11.13 passed by respondent D.C.L.R. Kahalgaon, Bhagalpur in B.L.D.R. Case No. 178/2013-14 being on grounds of it been suffering from the error of absence of jurisdiction and violation section 4 of the B.L.D.R. Act 2009;

d) For issuance of a writ in the nature of certiorari for quashing of the letter dated 06.12.14 issued by the



respondent Circle Officer Pirpainti in purported compliance of the impugned order dt. 10.10.14 passed by the respondent tribunal in BLT Case No. 446/14:

e) For issuance of a writ/order/direction in the nature of mandamus directing the respondents not to interfere with the peaceful possession of the petitioner over the disputed land in question during the pendency of Title Suit No. 61/2013 before Civil Court, Bhagalpur as the authority constituted under Bihar Lands Dispute Resolution Act 2009 had got no jurisdiction to entertain any application under the said Act which pertains to the same disputed land and same issue as is involved in the suit pending before Civil Court, Bhagalpur;

f) For a declaration that once the respondent D.CLR Kahalgaon Bhagalpur was informed by the petitioner no. 2 & 3 about the pendency of Title Suit No. 61/13 at Civil Court, Bhagalpur involving the same land and same dispute between the same such a party before the filing of the B.L.D.R. Case, the respondent D.C.L.R. Kahalgaon, Bhagalpur ought to have dropped the proceedings in light of section 4(2) and section 4(5) of the B.L.D.R. Act:

g) For a declaration that the Civil Court, Bhagalpur being in seisin of Title Suit No. 61/13 involving same land and same issue between the parties could not be obstructed by respondent D.C.L.R. Kahalgaon, Bhagalpur in the shape of impugned order dt. 27.11.13 passed in B.L.D.R. Case No. 178/2013-14 and the said order of D.C.L.R. resulted in usurpation of the Civil Court:

h) For a declaration that the respondent D.C.L.R. Kahalgaon, Bhagalpur and likewise the respondent Divisional Commissioner and Bihar Land Tribunal confirmed the same error of jurisdiction and thereby passed the impugned order perfectly within teeth of section 4(2) and section 4(5) of the B.L.D.R. Act as well as the judgment of this Hon'ble Court in the matter of Maheshwar Mandal



Vs. State of Bihar & Ors:

i) For any other relief/reliefs the petitioners are found entitled to in the facts and circumstances of this case.

4. The voluminous writ petition revolves around a simple dispute; actually where does the boundary of **Khesra Nos. 1178, 1179 and 1181 (area 4 decimals)** end and **Khesra No. 1184 (02 decimals)** starts. The case is of the district Bhagalpur under **Pirpanti Circle Office, Mauja-Barahat, Thana No. 152, Khata No. 290, Khesra No. 1184 (area 02 decimals)**.

5. **Respondent No. 7, Shiv Kumari Devi** has purchased the aforesaid plot Khesra No. 1184 (02 decimals) which borders with plot nos. 1178, 1179 and 1181 (area 4 decimals) belonging to the petitioners.

6. Neither side dispute the aforesaid facts that while plot nos. 1178, 1179 and 1181 (04 decimals) belong to the petitioners; the plot no. 1184 (02 decimals) belongs to the respondent no. 7. The only dispute is that while the case of the petitioners as submitted by Mr. Kejriwal is that they have not made any encroachment in the said plot no. 1184 (02 decimals), the contention of the respondent no. 7 as submitted by Mr. Bhola Prasad is that actually a part of plot no.1184 (02 decimals) is presently with the plot nos. 1178, 1179 and 1181 (area 4 decimals).

7. The petitioners through **Sumitra Devi**, filed a **Title Suit No. 61 of 2013** before the competent Civil Court which came



to be dismissed for non-prosecution as informed by learned counsel for respondent no. 7 and till date, no restoration petition has been filed.

8. The Commissioner, Bhagalpur Division, in Appeal Case No. 159 of 2013-14 (Binod Kejriwal and Others Vs. Shiv Kumari Devi) recorded the facts vide his order dated 19.04.2014 and having found no error in the order dated 27.11.2013 passed by the DCLR, Kahalgaon, disposed of the matter.

9. Aggreived, the petitioner moved before the Bihar Land Tribunal, Patna (henceforth for short 'the BLT') in **BLT Case No. 446 of 2014 (Binod Kejriwal and Others Vs. The State of Bihar and Others)**. By a short order dated 10.10.2014 and after recording that both the parties have admitted that the land [(plot no. 1184) area 2 decimals] belong to the opposite party, Shiv Kumari Devi, directed the **Circle Officer, Pirpainti**, to execute the order of the Commissioner, Bhagalpur in Appeal Case No. 159 of 2013-14.

10. Still aggreived, the present writ petition has been filed in the year 2015 and is now being taken for final hearing.

11. Learned counsel for the petitioners, Mr. Kejriwal submit that admittedly, the plot no. 1178, 1179 and 1181 (04 decimals) belong to them and reiterate that they have never encroached upon plot no. 1184 (02 decimals).



12. Mr. Bhola Prasad, learned counsel for the respondent no.7, on the other hand, submits that she only wants her piece of land (02 decimals) of plot no. 1184 and in that background, though the Title Suit preferred by the petitioners stand dismissed for non-prosecution and has not been revived; it will suffice if in the presence of the representatives of both the parties, the revenue officials get the lands of the petitioners vis-a-vis respondent no. 7 measured and act accordingly.

13. This Court is in conformity with the submissions of the parties. There is no dispute with regard to the plots in as much as the petitioners do not lay their claim on plot no. 1184 (02 decimals) while the other side has no interest in the plot nos. 1178, 1179 and 1181 (04 decimals). In that background, the Revenue officials can very well resolve the problem by properly getting the entire land measured and demarcated so that the parties can have their respective possession.

14. So far as the revival of Title Suit No. 61 of 2013-14 is concerned, it is for the parties to decide whether they want to go ahead with its revival. In that background, with the consent of the parties, this writ petition is disposed of directing the parties to approach the respondent no. 5, Circle Officer, Pirpainti, Bhagalpur with appropriate fees who shall take up the matter, hear both the parties whereafter a date shall be fixed. The respondent no. 5, the



Circle Officer, Pirpainti, Bhagalpur shall himself be present on the spot along with his sub-ordinates to **measure the entire land and to demarcate 1184 (02 decimals) vis-a-vis 1178, 1179 and 1181 (04 decimals).**

15. It is made clear that since it is an old case, the respondent no. 7 having purchased the land in the year 2011, lots of water has flown down the Ganges since then, any dereliction of duty by the concerned official (the Circle Officer, Pirpainti, Bhagalpur) will be construed as contempt of Court.

16. The entire process is to be completed within three months from the date, the parties provide a copy of the order to the concerned respondent along with appropriate fees.

17. Learned State Counsel undertakes to inform the concerned Officer (the Circle Officer, Pirpainti, Bhagalpur) today itself about the order passed herein.

18. The writ petition stands disposed of with the aforesaid observation.

(Rajiv Roy, J)

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