

IN THE HIGH COURT OF JUDICATURE AT PATNA
SECOND APPEAL No.383 of 2023

1. Latifan Khatoon Wife of Md. Shamshul Ansari Resident of Village- Kapraul Siroman, P.S. and Anchal- Riga, District- Sitamarhi.
2. Md. Chand Ansari, Son of Late Md. Suleman Ansari Resident of Village- Kapraul Siroman, P.S. and Anchal- Riga, District- Sitamarhi.
3. Jahana Khatoon, Wife of Madeen Ansari, D/o Late Suleman Ansari Resident of Village- Gaurha, P.S.- Nanpur, District- Sitamarhi.
4. Naga Das @ Nagendra Das, Son of Late Baidhnath Das Resident of Village- Kapraul Siroman, P.S. and Anchal- Riga, District- Sitamarhi.
5. Suraj Das, Son of Late Baidhnath Das Resident of Village- Kapraul Siroman, P.S. and Anchal- Riga, District- Sitamarhi.
6. Kishori Das, Son of Late Baidhnath Das Resident of Village- Kapraul Siroman, P.S. and Anchal- Riga, District- Sitamarhi.
7. Nageshwar Das, Son of Late Baidhnath Das Resident of Village- Kapraul Siroman, P.S. and Anchal- Riga, District- Sitamarhi.

... .. Appellant/s

Versus

1. The State of Bihar through Collector, Sitamarhi.
2. The Circle Officer, Riga, P.S.- Riga, District- Sitamarhi.
3. Kayum Ansari, Son of Late Sadeek Ansari Resident of Village- Kapraul Siroman, P.S. and Anchal- Riga, District- Sitamarhi.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Md. Anisur Rahman, Adv.
For the State	:	Mr. U.S.S. Singh, GP-19
For the Respondent No. 3	:	Mr. Surendra Kishore Thakur, Adv.
		Mr. Alok Kumar Jha, Adv.
		Ms. Sweta Priya, Adv.

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

10 08-04-2025 Heard Mr. Md. Anisur Rahman, learned counsel for
the appellants as well as learned counsel(s) for the respondents.

2. This Second Appeal has been filed against the
judgment and decree dated 25.09.2023 passed in Title Appeal
No. 09 of 2022 by the learned Additional District Judge-III,



Sitamarhi whereby the learned Appellate Court has affirmed the judgment and decree dated 30.08.2022 passed by the learned Sub-Judge-I, Sitamarhi in Title Suit No. 279 of 2017.

3. The appellants were the defendants and respondent no. 3 was the plaintiff in the aforesaid suit.

4. The plaintiff had filed the suit for declaration of *Basgit Parcha* issued by the defendant-Ist party in favour of defendant second party for Schedule-II land and also for recovery of possession of Schedule-III property as forged and illegal and not binding upon him. The plaintiff purchased the land on 03.08.2015 (Ext.1) from one Bharat Prasad. It was pleaded that the sons of Late Satya Narain Prasad (Bharat Prasad, Laxman Prasad and Satrugan Prasad) filed a Partition Suit No. 21 of 1961 in the court of Sub-Judge. The schedule-I of the plaint was allotted to exclusive share of Bharat Prasad in the partition suit. The plaintiff is the *bonafide* purchaser for the valuable consideration of Rs. 6, 84,000/- and he came in possession over the same. It is further case of the plaintiff that he raised *pucca* boundary wall over the above purchased land and also constructed a *pucca* house. It is further contended that in the last week in the month of June 2017, he collected building materials on his purchased land as mentioned in Schedule-I land



and then the defendant second party and third party came there and asserted their rights on the basis of *Basgit Parcha* over a portion of the purchased land of the plaintiff issued by the Circle Officer. It is further contended that after due verification of the record of the *Basgit Parcha*, he came to know that by an order dated 03.02.2016 passed in *Basgit Parcha* Case No. 01 of 2015-16, the *Basgit Parcha* was issued in the name of 12 different persons including defendant-2nd party. He filed requisite for obtaining certified copy of order dated 01.07.2016 passed in *Basgit Parcha* Case No. 01 of 2015-16 though he did not get it. It is further contended that lately he received the entire order sheet of *Basgit Parcha* Case No. 01 of 2015-16 on 03.09.2019. It revealed from the order sheet that a fraud has been played against the respondent in granting *Basgit Parcha*. No notice was issued either to the original land owner, namely, Bharat Prasad or to the plaintiff and there is no application for filing for *Basgit Parcha* according to Bihar Privileged Persons Homestead Tenancy Act. It is also contended that no inquiry was done according to Rule 5 of the Bihar Privileged Persons Homestead Tenancy Act. It is apparent from the record that the defendant/*Basgit Parcha* holder has claimed that he was tenant of Bharat Prasad. It is also pleaded that the proceeding has been



conducted fraudulently. It is completely against the mandate of law.

5. On the other land, on summon, the defendants appeared and filed their written statement and submitted that he was tenant of Bharat Prasad and he applied along with other persons in a combined petition for settlement in view of the provision envisaged under Section 3 of the Bihar Privileged Persons Homestead Tenancy Act and he is continuing in possession. It is further contended that the plaintiff's land is a different land bounded under the boundary wall and defendant/*Parcha* holder has no concern with the said land. It is also submitted that *Parcha* has been issued after due process of law and after due inquiry by the Circle Inspector and she was landless lady and after settlement she has constructed a house over the land in question. The learned counsel for the appellants submits that defendant's witnesses have not been considered by both the courts below.

6. After considering the pleadings and materials on record as well as judgment of the courts below, the learned lower Appellate Court which is the final court of facts has clearly stated that no notice has been issued against the land holder, namely, Bharat Prasad. The entire order sheet of *Basgit*



Parcha proceeding has been marked as Ext.-5 which shows that no notice was issued to land holder Bharat Prasad. It is admitted case of the parties that the originally land belongs to the said Bharat Prasad. It is also held that the notices were not issued in Form-F to all the interested parties intimating the date of which the inquiry shall be conducted. It is also submitted that there is no material on record to suggest that a spot inquiry in presence of land owner was held which is complete violation of Rule 5 of the Bihar Privileged Persons Tenancy Act. There is nothing on record to show that the inquiry was made by the Collector under the Act on a particular date in presence of all the interested parties. The said *Basgit Parcha* proceeding was conducted in conspiracy with the defendant/*Basgit Parcha* holder. There is mis-carriage of justice and against the mandate of law as well as in violation of principle of natural justice, order was passed in *Basgit Parcha* Case No. 01 of 2015-16. Hence, the said order is not binding on the plaintiff and the order is bad in law. It is further held that no evidence has been adduced on behalf of the defendants to show that the suit property is not the property of the plaintiff.

7. Considering the facts and circumstances and concurrent findings of both the courts, I am not inclined to



interfere with the impugned judgment and decree as there is no question of law much less substantial question of law involved in this case.

8. Accordingly, the present appeal is dismissed at the stage of ‘Admission’ hearing under “Order XLI Rule 11 C.P.C.”

(Khatim Reza, J)

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