
(2010) 07 PAT CK 0014
In the Patna High Court

Bhuna Rai

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 13-07-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 107, 144

Citation : (2010) 07 PAT CK 0014

Hon'ble Judges : Sheema Ali Khan, J

Bench : Single Bench

Judgement

Sheema Ali Khan, J.—The petitioner claims that the lands in question were settled by the ex-landlord sometime in the year 1930-31. He also claims that there was a proceeding u/s 144 of the Code of Criminal Procedure in the year 1946 in which one Babulal Choudhary was the Opposite Party. One Huro Choudhary is also said to have created disturbance on the said lands which has also led to 107 proceedings. In the order passed in the 144 proceedings dated 17.10.1946, it has been held that the petitioner was in possession of 24 decimals of land in plot No. 2437 of khata No. 167 situated in the village Urba, Police Station Chakai.

2. Counsel for the petitioner submits that he has remained in possession over the lands in question from the time of the vesting of the Zamindari. It is also submitted that the Opposite Party has surreptitiously got his name mutated in the revenue records and when the petitioner come to learn of this, he filed an application for cancellation of jamabandi opened in the name of the Opposite Party. The Circle Officer allowed the application of the petitioner. The Opposite Party Kuna Devi, who was the wife of Late Puni Mahto filed an appeal against the order of the Circle Officer vide Case No. 1 of 1995-96. The Land Reforms Deputy Collector after hearing the parties, remanded the matter back to the Circle Officer. Against the order of remand, the petitioner filed an application before the Collector, which was allowed.

3. The case of the respondent is that her husband's father was a settlee from

the ex-landlord who had filed returns in the name of the ancestor of the respondent. The claim is that the respondent has been paying rent to the State of Bihar and that they have been in continuous possession over the said lands till the case was filed by the petitioner before the Circle Officer being Case No. 1 of 1984-85. It is further submitted that in the proceedings u/s 144 and 107 of the Code of Criminal Procedure, the petitioner was not made party and that the area of land in the proceedings defer from the present proceedings, as such those orders will not help the petitioner in any manner. The petitioner has challenged the findings of the Collector by filing a case before the Divisional Commissioner who rejected the claim of the petitioner on the ground that it was not maintainable.

4. This Court after considering the respective cases of the parties, comes to a finding that if any party is aggrieved by the orders passed in the Courts below, it would be open for them to get the matter settled by filing a suit. Obviously, any order by the Revenue Authorities would be subject to the result of the suit.

5. This application is accordingly disposed of.