

(2012) 10 PAT CK 0113

In the Patna High Court

Case No : Letters Patent Appeal No. 364 of 2011 In Civil Writ Jurisdiction Case
No. 14827 of 2010

Bhuneshwar Chauhan

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 09-10-2012

Acts Referred:

Citation : (2013) 1 BBCJ 543

Hon'ble Judges : R.M. Doshit, CJ. and Ahsanuddin Amanullah, J.

Bench : Division Bench

Advocate : Mr. Pramod Kumar Verma, Advocate, for the Appellant; Mr. Manoj Kumar Ambastha, G.P.-14, Mr. Subodh Kumar, A.C. to G.P.-14 and Mr. Santosh Mishra, A.C. to G.P.-14, for the Respondent/State; Mr. Arun Kumar Arun, Advocate, for the Respondent No. 6

Final Decision : Dismissed

Judgement

R.M. Doshit, C.J.—Feeling aggrieved by the order dated 10th January 2011 made by the learned single Judge in C.W.J.C. No. 14827 of 2010, the writ petitioner has preferred this Appeal under Clause 10 of the Letters Patent.

2. The matter at dispute is the land Khata No.2206, Plot No.6863 admeasuring 37? decimals situated at Village-Kadirganj, District-Nawada. The disputed piece of land has been purchased by the respondent no.6 from her predecessor in title one Bibi Rabia Khatoon through a registered sale-deed dated 29th October 1991 (copy of the sale-deed is brought on record of the Letters Patent Appeal). The mutation entry made in favour of the respondent no.6 was challenged by the writ petitioner before the District Collector, Nawada. The writ petitioner claims title over the disputed land through his predecessor one Dhako Nonia. Whereas the respondent no.6 claims that the disputed piece of land belonged to one Govind Nonia. The said Govind Nonia sold the disputed piece of land to one Sheikh Ali Hasan as early as on 9th May 1961. From the said Sheikh Ali Hasan, the land devolved upon the vendor of the respondent no.6, the aforesaid Bibi Rabia

Khatoon. Thus, the challenge to the mutation entry by the appellant was not sustainable. Appeal No.9/2009-10 preferred by the appellant before the Deputy Collector Land Reforms, Nawada was allowed on 9th October 2009. The said order was challenged by the respondent no.6 before the Collector, Nawada. The said revision came to be allowed by the Additional Collector, Nawada on 27th April 2010.

3. Feeling aggrieved, the appellant filed the above C.W.J.C. No. 14827 of 2010. The same has been dismissed by the learned single Judge. The learned single Judge has observed that the mutation entry does not create or extinguish a title over the land. If aggrieved, the appellant may approach the Civil Court. Therefore, this Appeal.

4. In the present Appeal, first and the foremost, the challenge was to the authority of the Additional Collector to hear and decide the appeal against the order of the Deputy Collector Land Reforms. The said challenge is not sustainable as the issue has now been decided by a Bench of this Court in the matter of Amarendra Kumar Singh v. State of Bihar & Ors., {2011(3) PLJR 422}.

5. It is apparent that the respondent no.6 has become the owner of the disputed land through a registered sale-deed. If aggrieved, the only remedy available to the appellant is to challenge the said transfer before the civil Court. In absence of challenge to the sale-deed, the learned single Judge has rightly dismissed the writ petition.

6. No case for interference is made out. Appeal is dismissed in limine.