
(2010) 07 PAT CK 0078

In the Patna High Court

Chameli Devi and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 27-07-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 4H, 80

Citation : (2010) 07 PAT CK 0078

Hon'ble Judges : Sheema Ali Khan, J

Bench : Single Bench

Judgement

Sheema Ali Khan, J.—Petitioners' case is that the land was settled on 27.9.1939 by the ex-land lord i.e. Maharani of Deo in Aurangabad. During enquiry it came to light that the petitioner (Mahavir Prasad Jain) was being issued rent receipts on land which was purported to be recorded in the name of State of Bihar. The D.C.L.R. by annexure-2 held that the settlement produced by the petitioner was a forged document. It was written in fresh ink which led to the conclusion that it was newly created document. It has been recognized by all three authorities i.e. the D.C.L.R., The Collector and the Commissioner of the Division that the settlement cannot be cancelled or examined u/s 4H.

2. On behalf of the State, it is contended that in fact the settlement has not been cancelled rather the Jamabandi has been cancelled. The question that will arise therefore, is whether the petitioners would continue to have title over the said lands by way of the document of settlement in their favour. Admittedly the petitioners are in possession of the land prior to filing of this writ application. This Court had granted stay in favour of the petitioner and directed that no steps should be taken to dispossess him.

3. In the circumstances, the petitioners may file a suit for declaration of their title and confirmation of their possession before the competent authority within three months after giving notice u/s 80 of the CPC to the respondent State. The petitioners would have the liberty to file an injunction petition after filing the suit. This Court further orders that no coercive steps will be taken by the State of

Bihar to dispossess the petitioners from the lands in question until the final disposal of the injunction matter up to the appellate stage. I also direct that the Court concerned should while examining this matter call for the original records i.e. Jamabandi and Register II which will indicate the manner in which the land recorded in the name of State of Bihar became the raiyati land. The suit may be disposed of as expeditiously as possible, considering that the matter relates to the year 1984-85.

4. This writ application is disposed of with the aforesaid directions.