
(1968) 08 PAT CK 0026
In the Patna High Court
Case No : Civil Rev. No. 298 of 1968

Dr. Bibhuti Bhushan Mazumdar

APPELLANT

Vs

Shibshakar Mandal and Others

RESPONDENT

Date of Decision : 06-08-1968

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 24

Citation : (1968) 08 PAT CK 0026

Hon'ble Judges : U.N. Sinha, J

Bench : Single Bench

Advocate : Prem Shankar Sahay and Rudradeo Kumar Sinha, for the Appellant;
Brijkishore Prasad No. 1 and Dhananjay Prasad Singh, for the Respondent

Final Decision : Allowed

Judgement

U.N. Sinha, J.—This application has been filed by a party who had applied before the District Judge of Bhagalpur u/s 24 of the CPC for withdrawing three title suits pending in the court of the Munsif 2nd Court, Bhagalpur and for transferring them for disposal to the court of the Subordinate Judge, there, where two other title suits are pending in each of which the petitioner is the sole defendant. In the three suits pending in the court of the Munsif 2nd Court also, the petitioner is the sole defendant. That application has been dismissed by the learned District Judge. According to the petitioner, he owned 21.98 acres of land in Mouza Shankarpur, which was recorded in his name in the recent survey settlement, under 17 different Khesras appertaining to Khata No. 662. All the plaintiffs of these five suits had filed objections before the survey authorities, but their objections were rejected. It appears that, thereafter, in the year 1964, two sets of plaintiffs filed two title suits, one numbered as Title Suit No. 69 of 1964 in the court of the Munsif 2nd Court, and the other numbered as Title Suit No. 89 of 1964 filed in the court of the Subordinate Judge. Thereafter three sets of other persons filed three other title suits, one of which was filed before the Subordinate Judge, numbered as Title Suit No. 120 of 1965. The other two suits were filed in

the court of the Munsif 2nd Court and they were numbered as Title Suits No. 92 of 1965 and 100 of 1965. As stated above, the petitioner is the defendant in each of these title suits and the suits are with respect to different plots of Khata No. 662. All the plaintiffs are parties in this application which is being considered today.

2. With respect to Title Suit No. 69 of 1964, the learned District Judge has disposed of this matter by stating that this title suit was decreed ex parte and an application for restoration was pending and as such, nothing could be done about it. It is now stated on affidavit that the restoration application has been allowed by the learned Munsif by his order dated the 2nd March, 1968. The learned District Judge has refused to transfer the other two cases pending before the Munsif 2nd Court, on the ground that the causes of action in the different suits are different. This has been controverted by the petitioner in Paragraph 11 of this application where it has been stated that the points involved in all the suits are the same, that is to say, whether the disputed properties had been settled with the petitioner on the 25th September, 1948 or not. Therefore, although different plots of land of Khata No. 662 are involved in the different suits, the main question is common between the parties. On the facts stated in the present application it is clear that it will be convenient for all parties concerned that these five suits are disposed, of by the same court, otherwise, there may be contradictory findings on the main question raised, by the present petitioner. In the circumstances of the case, when no major opposite party has appeared in this Court and contested this application, I think this is a fit case in which the three title suits pending in the court of the Munsif 2nd Court, Bhagalpur, mentioned above, should be transferred to the court of the Subordinate Judge, Bhagalpur, where Title Suit No. 89 of 1964 and 120 of 1965 are pending disposal. I may observe that it may be convenient for the court trying all the five suits to hear them one after the other, so that there may be a continuity of proceeding, but I do not propose to bind down the hands of the trial court. It is only expected that the trial court would keep this matter in view. This application is, therefore, allowed. There will be no order for costs.