
(2020) 02 PAT CK 0230

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 20494 Of 2018

Jai Mangal Rai And Ors

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 14-02-2020

Acts Referred:

Citation : (2020) 02 PAT CK 0230

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Ashok Kumar Sinha, Shyam Sunder Pandey, Rakesh Kumar Shrivastava, Baidhnath Thakur, Mazharul Hassan

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the petitioners; learned AC to GP 15 for the State and learned counsel for the respondents no. 4 to 6.

2. The petitioners have moved the Court for the following relief:

"To quash the order dated 25.06.2018 passed by the respondent No.07 as also the order dated 23.02.2016 passed by Collector, Muzaffapur in case No. 39 Misc./2006-07 whereby and where under the order dated 19.07.2005, passed by the Circle Officer, Mushahari, Muzaffarpur, in Basgit Purchas Case No.12/2005-06 was set aside."

3. The petitioners were issued Basgit Parcha in favour of the land in question, by the Circle Officer in Basgit Parcha Case No.12 of 2005-06 by order dated 19.07.2005. The respondents no. 4 to 6 being aggrieved had filed Case No.39 Miscellaneous/2006-07 before the Collector-cum-District Magistrate, Muzaffarpur and by order dated 23.02.2016, the Basgit Parcha issued in favour of the petitioners was cancelled. The petitioners thereafter, against the said order, moved before the Bihar Land Tribunal, Patna, (hereinafter referred to as the 'Tribunal') in BLT Case No.102 of 2017, which, by order dated 25.06.2018, in the background of there being no representation on behalf of the petitioners, has

held that the same has no merit and, accordingly, has dismissed the case.

4. Learned counsel for the petitioners submitted that initially the case was running before a Member of the Tribunal and subsequently due to the said Member demitting office, the petitioners were informed that the matter would now be listed before another Bench and they would be accordingly informed of the date and the Bench before which their matter would be listed, but without the same being done, it was listed and taken up on 25.06.2018 and only after hearing the private respondents, the application has been dismissed. It was submitted that the Tribunal has gone beyond jurisdiction by going into the merits of the matter, which was even beyond the scope of the case, as challenge was to the order of the Collector dated 23.02.2016 in which such issues were neither discussed nor finding given.

5. Though learned counsel canvassed many other points, both on facts as well as law, with regard to the infirmity in the orders of the Collector dated 23.02.2016 as well as the Tribunal dated 25.06.2018, but finally took the stand that the petitioners, at least, deserve to be heard on merits by the Tribunal which has not been done in their absence.

6. Learned counsel for the State also tried to justify the order of the Collector. However, with regard to the stand taken by the petitioners that the case before the Tribunal be restored and heard again, he submitted that the petitioners may be given such opportunity.

7. Learned counsel for the respondents no. 4 to 6 addressed the Court on merits, but very fairly submitted that in view of the observation of the Court that the petitioners are required to be heard, at least, by the Tribunal on merits, he fairly agreed to the proposal.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the order dated 25.06.2018 passed by the Tribunal in BLT Case No.102 of 2017 stands set aside. The case stands restored to its file and number. It shall be heard and decided by the Tribunal, in accordance with law, after giving reasonable opportunity of hearing to all concerned.

9. The Court would only indicate that it has not expressed any opinion with regard to the merits of either side. It shall be dealt with by the Tribunal based on the materials placed before it by the sides.

10. As the Court has been informed that the respondents no. 4 to 6 have filed Title Suit No.103 of 2006, which is for declaration of title and restoration of possession with regard to the land in question, which is pending before the Sub Judge in the Civil Courts at Muzaffarpur, the Court deems it appropriate that the said Title Suit be taken to its logical conclusion since it has been stated before the Court that the matter is running for final hearing. Thus, let the Court below pass final orders, in accordance with law, in the Title Suit within six weeks from

the date of production of a copy of the order before the said Court. This Court would only observe that the order passed by the Collector dated 23.02.2016 shall not cause any prejudice to the case of the petitioners in the Title Suit.

11. In the meantime, the parties shall appear before the Tribunal on 25th February, 2020, and further proceeding shall commence after the final judgment in the Title Suit.

12. For the ends of justice, till final disposal of the Title Suit, status quo, as of today, shall be maintained.

13. The writ petition stands disposed off in the aforementioned agreed terms.

14. Pending Interlocutory Application No.9530 of 2018 stands disposed off.