

(2010) 08 PAT CK 0067
In the Patna High Court
Case No : CWJC No. 663 of 2000

Ram Lochan Sharma

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 20-08-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 144

Citation : (2011) 1 PLJR 491

Hon'ble Judges : Sheema Ali Khan, J

Bench : Single Bench

Judgement

Sheema Ali Khan, J.—The plot in dispute is 591 appertaining to Khata No. 29, measuring 4 kathas 6 dhurs, described as per the Petitioner's case, as GAIR MAZARUA MALIK land of Hathwa Maharaj.

2. The case of the Respondent No. 7 is that this plot of land vested in the State of Bihar and as such the Respondent No. 7 has applied for settlement of the lands in her favour.

3. The Petitioner claims that the land was settled to Basudeo Rai by Hathwa Maharaj vide a document dated 5.7.1945, rent receipts were also issued by the ex-landlord to said Basudeo Rai. At the time of vesting, the ex-landlord submitted returns in favour of Basudeo Rai. The Petitioner claims that his vendor has been paying rent to the State of Bihar and after the lands were transferred in the name of the Petitioner and his brother on 18.8.1960, he stepped into the shoes of his vendor and is paying rent to the State of Bihar, on the basis of mutation proceeding.

4. The dispute arose between the Petitioner and the Respondent No. 7 some time in the year 1989 when a proceeding u/s 144 of the Code of Criminal Procedure was initiated. The Petitioner claims to be in possession during the proceedings. Ultimately, the Petitioner filed Title Suit No. 17 of 1993. In the meantime, Respondent No. 7 filed Jamabandi Cancellation Case No. 47 of 1992-93. The

Jamabandi of the Petitioner was cancelled without issuing notice to the Petitioner and recommendation has been made for settlement of 3 kathas 16 dhurs of plot No. 591, khata No. 29 in favour of Respondent No. 7.

5. Counsel for the Respondents submits that the Petitioner was always in possession of the said lands and, therefore, she has prayed for settlement of the plot of land. It is further submitted that there were two proceedings u/s 144 of the Code of Criminal Procedure, one of the year 1989 and the other in the year 1992. In the order dated 19.12.1992, the Respondent No. 7 is said to be in possession.

6. The Petitioner in the suit, filed an application for injunction which was rejected on the ground that the jamabandi created in favour of the Petitioner has already been cancelled by order dated 16.2.1993. The Petitioner has taken steps to challenge the order refusing the prayer on his behalf to restrain the Respondent No. 7 from disturbing his possession.

7. I may make it clear that this Court is not passing any order on the merits of this case but the principles of natural justice have to be adhered to in every act of the State Government and as such the orders as contained in Annexures-1 and 2 passed without giving notice to the Petitioner is bad, and are therefore set aside.

8. This matter is remanded back to the Circle Officer, Mairwa to pass appropriate orders after issuing notice to the Petitioner within a period of six months from the date of receipt/production of a copy of this order.

9. This application is disposed of with the aforesaid observations and directions.