
(2015) 07 PAT CK 0084

In the Patna High Court

Case No : Letters Patent Appeal No. 1839 of 2012

Shakuntala Devi and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 16-07-2015

Acts Referred:

Citation : (2015) 07 PAT CK 0084

Hon'ble Judges : V.N. Sinha, J;Jitendra Mohan Sharma, J

Bench : Division Bench

Advocate : Vishal Saurabh, for the Appellant; Vikas Kumar, A.C. to A.G., Awadesh Kumar Pandey, Advocate and Ravinder Kumar Sharma, C.G.C., Advocates for the Respondent

Final Decision : Disposed off

Judgement

V.N. Sinha, J.

1. Heard learned counsel for the appellants and the State.
2. Appellant No. 1 claims title, possession over Plot No. 2105, 2128 appertaining to Khata No. 150 measuring an area of 35 decimals in Village- Salarpur, P.S.- Daniawa, District- Patna. Appellant Nos. 2, 3 claim title, possession over Plot Nos. 2108, 2109, 2110, 2111, 2112 and 2120 appertaining to Khata No. 142 of the same village and it is submitted that the total area of the 6 plots is 213 decimals out of which 110 decimals is being used by the respondents for storing construction materials for laying the road over the aforesaid plots. It is submitted on behalf of the appellants that they made representation before the Collector of the district not to proceed with the laying of the road over any portion of the aforesaid area of lands as those plots are the raiyati plot of the appellants, which they have obtained in family partition and without acquiring the said raiyati land State and its functionaries should neither lay the road nor store construction material over the same.
3. It is submitted on behalf of the State that with the writ petition or the L.P.A.

copy of the title document or raiyati khatian of the lands-in-question has not been annexed, as such, it is not possible for the State to appreciate the contention of the petitioner as there is already an existing road, may be without soling, pitching over the lands-in-question from the year 1992-93 and appreciating such fact the contention of the appellant was rightly rejected by the learned Single Judge under impugned order dated 01.10.2012 passed in C.W.J.C. No. 4569 of 2011, assailing whereof the present appeal has been filed.

4. Learned counsel for the appellants in reply with reference to Annexure-6, photographs of the so-called road-in-question submitted that the road appears to have been laid recently by cutting soil from the lands situate by the side of the road. It is submitted on behalf of the appellants that prior to the earth cutting from the adjoining lands of the appellants for broadening the width, raising the height of the road there was a footpath which has now been widened to the extent of 16 ft. in width by not only taking soil from the raiyati land of the appellants but also by using part of the same raiyati land for its widening.

5. Having heard counsel for the appellants and the State, we set aside the impugned order dated 01.10.2012 passed in C.W.J.C. No. 4569 of 2011, direct the appellants to appear before D.D.C., Patna, under whose authority the road-in-question has been laid under the Prime Minister Village Road Scheme and produce records to establish their title and possession over the same and D.D.C. shall examine the land records of the plot-in-question referred to above and if those lands are the raiyati lands of the appellants, demarcate the same and remove that part of the road which is raised over the same. If the lands-in-question are the raiyati lands of the appellants, D.D.C. shall also compensate the appellants for the soil which he has taken from the raiyati land and used for widening of the footpath. Necessary compliance of this order be made by the D.D.C. within two weeks of the appearance of the appellants before him, failing which he may expose himself to the charge of contempt of this Court.

6. The appeal is, accordingly, disposed of.