

आदेश की क्रम
संख्या और तारीख

आदेश और पदाधिकारी का हस्ताक्षर

आदेश पर की गई
कारवाई के बारे में
टिप्पणी तारीख के
साथ

In The Court Of: Land Reforms Deputy Collector, Arwal.

Case No. 94/ 2015-16

Lallan Singh & others- applicant

Vrs.

Shanker Dayal Singh & others- opposite parties

Present- Rakesh Kumar, DCLR

Learned Advocate of applicant

1. Sri Shailesh Sharma.

2. Sri Binod kumar Singh .

Learned Advocate of opposite parties

1. Sri. Anil Sharma.

ORDER

Both the parties appeared at the time of hearing. The present case is related to

Schedule

Khata	Plot No.	Rakwa A- D	Boundary
111	353	0-1 $\frac{1}{2}$	N-Lallan Singh. S- Late Rampreet Singh. E- Pakki Sarak. W- Niz Makan Wadi Chandra Vilas Singh.

Mauza- Katherine, P.S.+ Anchal- Kaler, Dist-Arwal .

The learned advocate of applicant submitted on behalf of Lallan Singh & Chandra Vilash Singh both S/o Late Ram Dayal Singh that opposite parties namely Shanker Dayal Singh (opposite party-01, Lal Babu Singh (opposite party-02) both S/o Chanarik Singh, Bengali Singh S/o Late Ramjee Singh (opposite party-03) are aggressive in nature and wants to grab the land of applicants which was allotted to them under BPPHT Act

30-11-2016

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via case No.- 32 & 33/2011-2012. However, details of land allotted to Chadra Vilas Singh is mentioned in schedule where as land allotted to Lallan Singh is in same khata & khesra but in its North- is Gair Mazurwa Parti Kadeem, South- Chandra Vilas Singh, E- Pakki Sarak, W- Niz Makan. Learned advocate said that in applicant's North is "Gair Mazurwa parti Kadeem" which has been captured by opposite party & has put manger "i.e. 'Naad' in his land. Learned advocate stated that applicant's has fenced his land but opposite parties are also claiming this area of land. since, opposite parties dispossessed them from allotted land, so Jitendra Kumar S/o Yadu Vilas Singh, the present owner of said land gave an application to circle officer, kaler for measurement & demarcation of his area of land, accordingly 'Revenue Karamchari, Anchal Amin measured the disputed land on 20.02.2016. Learned advocate claims on the basis of this order of circle officer that circle officer has accepted it to be land of applicants then only direction was to given to subordinate staffs for demarcating the disputed area. However, learned advocate alleged that circle officer has wrongly submitted the report regarding disputed land and if the documents related to applicants is not available in circle office then responsibility should be fixed but applicants can not suffer due to this act of circle office, kaler. Finally, learned advocate pleaded for measurement & demarcation of his land and wants restoration of dispossessed area as well as declaration of right over the disputed land. so that "Naad" which was built a month ago can be removed from spot.

The opposite party has not submitted any written

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statement but continuously asked report from circle office related to documents of applicants. However, opposite party has submitted written arguments and writes that documents related to "Basgit Parcha" of applicants is a forged documents which is clear from report of circle officer kaler. Learned advocate claimed that opposite parties grand father namely Late Bhavani Gope had received an area of 35 desimal as "Hukumnama" and its "jamabandi" return was also filed in circle office. He stated that since the prd of Late Bhavani singh, opposite parties are residing on that land and they have built "concrete Manger" i.e. "Naad" on that land. Learned advocate said that applicants had tried to remove this "Naad" on earlier occasions also, so opposite party namely Shanker Dayal singh had given an application to then DCLR, Arwal who had directed circle office to enquire about the land of khata 111 plot No- 353 comprising an area of one acre 87 desimal via letter No.- 129 dated 14.02.2015 but enquiry report is yet come to this office. Further, applicants namely Lallan singh & his own brother subhash singh had filed a case in court of SDM, Arwal U/S 147 of crpc on 26.02.2015 where applicants claimed that in disputed khata & plot an area of 03 desimal was received by Late Ram Dayal singh, father of applicants as "Hukumnama" in year 1944 and this case is still pending in Honourable court of SDM, Arwal. Learned advocate emphatically said that if applicants were given "Parcha" under BPPHT in year 2011 then how they received the land through "Hukumnama". Learned advocate is of view that documents related to "Hukumnama" was forged, so its return is not

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available, so they again forged the document related to "Basgit Parcha" which contradicts it self and is a proof that disputed land is not of applicants. Learned advocate also states that applicants had filed case U/S 147 of crpc in February 2015 and in December 2015 case was filed in this court, So how they claims that opposite party built the "Naad" just a month ago. so learned advocate opposed the relief sought by applicants for measurement & restoration of dispossessed land as disputed land is of opposite parties and they are paying rent to govt and as a proof they have revenue receipt with them. Learned advocate also pleads for lodging an FIR against applicants for forging the documents and Finally pleads for dismissal of the case.

Heard the learned advocate of both the parties and perused the documents available on record. Applicant has submitted documents related to "Basgit Parcha" under BPPHT Act. Where as opposite parties has submitted copy of compensation case No-113/53-54, zamindari receipt, revenue receipt of khata-111 along with other khatas, a letter No- 129 dated 14.02.2015 of then. DCLR, Arwal to circle officer, kaler for enquiry report on basis of application given by opposite parties, photocopy of a part of "Hukumnama" a photo copy of plaint filed by applicants in a case filed U/S 147 of crpc in court of SDM, Arwal. Further, a report from circle officer, kaler related to documents of applicant is available in record which was sent through circle officer's letter No-398 dated 13.07.2016, A notice issued from circle office, kaler to opposite parties for removal of encroached land i.e. disputed land and


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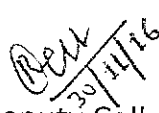
measurement report with "Nazre Naksha" of Anchal Amin, kaler. After looking all these documents it is found that circle officer has enquired about disputed land through "Karamchari" & incharge circle Inspector who reports that land of khata-111 plot-853 area-1.87 Acre is "Gair Mazurwa Malik" 'Kism"- Parti Kadeem and out of it in an area of 0.35 desimal was received by ancestor of applicants namely Late Bhawani Gope through "Hukumnama" but no return is available but jamabandi of that khata is mentioned in name of Ram Kisun singh & Ganga singh both s/o Late Bhavani singh in 165/01. Further, out of this 0.35 desimal in an area of 0.10 desimal is road and disputed trough i.e. 'Naad' also exists on that land. Further, no document is available in circle office related to issuing of 'Basgit Parcha' to applicants. Further, after looking the trace map submitted by Anchal Amin, kaler, it seems that plot No-353 is a large area plot where in between both the parties a concrete road exists and Trough i.e. 'Naad' has been kept by opposite party in side of applicant and that area where "Naad" are constructed is being claimed by applicants on basis of "Parcha" allotted under BPPHT as well as 'Hukumnama" and opposite parties claims on basis of their "Hukumnama". After, perusing the documents it seems that both the parties has forged the documents related to 'Hukumnama" and, it seems that applicants falsely claims the land on basis "parcha" allotted under BPPHT Act as in plaint submitted in case U/S 147 of crpc in court of learned SDM, they mentions to have received it through 'Hukumnama" in year 1944 but again same land is being claimed in this court on basis of 'parcha' under

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BPPHT Act. So it is paradox in part of applicant's whose statements are contradictoy in two different courts. Further, circle officer, kaler has not mentioned in report that land of disputed khata/khesra was received by opposite parties in "Hukumnama" and whether its return was filed by then owner of the land or not, is not clear in that report. However, a revenue receipt is available related to disputed khata in favour of op but this receipt covers the disputed land is not clear in any report. So over all, it can be said that a thorough enquiry is required to be done by circle officer, kaler as land of disputed khata may be government land. However, based on documents submitted by applicant, this court can not grant any relief to them as personally they have accepted to undersigned that documents related to BPPHT has been forged by them on basis of ill advice given to them by their detractors in village who temporarily had sympathy to wards them. So relief sought by them is beyond jurisdiction of this court. So claim of applicants is rejected and case is dismissed.

Dictated and corrected


Land Reforms Deputy Collector
Arwal


Land Reforms Deputy Collector
Arwal.