

आदेश की क्रम संख्या और तारीख	आदेश और पदाधिकारी का हस्ताक्षर	आदेश पर की गई कारवाई के बारे में टिप्पणी तारीख के साथ																				
11-07-2017	<p align="center">In The Court Of: Land Reforms Deputy Collector, Arwal. Case No. 72/ 2016-17 Birendra Singh & others- applicant Vrs. Jagdish Singh & others – opposite parties Present- Rakesh Kumar, DCLR <u>Learned Advocate of applicant</u> 1. Md. Afsar Hamid. <u>Learned Advocate of opposite party.</u> 1. Sri. Anil Sharma.</p> <p align="center"><u>ORDER</u></p> <p>Both the parties appeared at the time of hearing. The present case is related to</p> <p align="center">Schedule-01</p> <table border="1"> <thead> <tr> <th>Khata</th> <th>Plot</th> <th>Rakwa</th> <th>Boundary</th> </tr> </thead> <tbody> <tr> <td>19</td> <td>120</td> <td>06 desimals</td> <td>N-Munarik Singh. S-Awadh Singh. E-Sachida Nand Singh. W-Umashankar Singh.</td> </tr> <tr> <td>19</td> <td>101</td> <td>9$\frac{1}{2}$ desimals</td> <td>N-Munarik Singh. S-Lalan Yadav. E-Niz. W-Umashankar Singh.</td> </tr> <tr> <td>19</td> <td>525</td> <td>21$\frac{1}{2}$ desimals</td> <td>N-Gopal Singh. S-Baij Nath Singh & Viswanath Singh. E-Navin Singh W-Karaha.</td> </tr> <tr> <td>28</td> <td>727 732</td> <td>48 desimals</td> <td>N-Baleshwar Singh. S-Jagdish Singh. E-Anil Singh. W-Brij Nandan Singh & Kapil Singh.</td> </tr> </tbody> </table>	Khata	Plot	Rakwa	Boundary	19	120	06 desimals	N-Munarik Singh. S-Awadh Singh. E-Sachida Nand Singh. W-Umashankar Singh.	19	101	9 $\frac{1}{2}$ desimals	N-Munarik Singh. S-Lalan Yadav. E-Niz. W-Umashankar Singh.	19	525	21 $\frac{1}{2}$ desimals	N-Gopal Singh. S-Baij Nath Singh & Viswanath Singh. E-Navin Singh W-Karaha.	28	727 732	48 desimals	N-Baleshwar Singh. S-Jagdish Singh. E-Anil Singh. W-Brij Nandan Singh & Kapil Singh.	
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27	163 159	Miljumale 32 desimal me se $24\frac{1}{2}$ desimals	N-Dhari Singh. S-Paen & Presently Road. E-Umashankar Singh. W-Ram Tahal Mahato.
	589	11 desimals	N-Umashankar Singh. S-Girdhar Gopal. E-Bindu Singh. W-Upendra Singh.

Mauza-Bhikhanpur Dhewai, PS-Mehanediya, Anchal-Kaler, Dist-Arwal.

Schedule-02

Khata	Plot	Area	Boundary
199	31 28	$62\frac{1}{2}$ desimals	N- S-Bhudhan. E-Sindh Jee. W- Jagadish Singh & others

Mauza-Khavaini (खमैनी), PS+Anchal-Arwal, Dist-Arwal.

The learned advocate of applicant said that both the parties are progeny of common ancestor namely Deva Singh who had four sons namely Late Ramvilas Singh (Issueless), Rama Nand Singh, Jai Govind Singh and Jai Nandan Singh. The applicants namely Birendra Singh & Narendra Singh are S/o Jai Nandan Singh where as Jagdish Singh (op-01) is S/o Late Ramanand Singh, Lalti Devi is D/o Jamun Singh, other two sisters of Lalti Devi is dead where as Sarita Devi (op-03) & Chanchal Devi (op-04) are grand daughters of Jai Govind Singh. Learned advocate submitted that after demise of Deva Singh, his son Ramanand Singh became guardian of family. However, applicant's father was in Govt Job, who contributed in welfare of joint family but looking at dishonesty of other family members, he filed P.S. No-291/73 in court of sub-Judge, Jehanabad and it involved

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landed property of 7.57 Acre. Learned advocate stated that learned civil court, gave equal share to all four brothers but Ram Vilas Singh gave his share to Jai Nandan Singh. So as per order of the court, applicant's father got right over half the share of total land and none of the parties appealed in higher court against the order in partition suit. However, learned advocate alleged that opposite parties are illegallly trying to dispossess the applicants from their share of land and by breaking the ridge of applicant's land, they are violating the order of civil court. Learned advocate informed that proceeding U/S 144,107 and 188 has been also initiated against opposite parties but he pleaded for measurement & demarcation of his land. Learned advocate argued in court that he has filed the case in this court for implementation of order of civil court, so pleaded that if after measurement applicant's land is found to be dispossessed then it should be restored to them.

Learned advocate of opposite parties submitted that even after decree of civil court, applicants father never came into possession of land as per its order. He didn't accept that Ram Vilas Singh is issueless or he had given his share of land to applicant's father and claimed that in whole area of land, applicant has right over only on 1/3 rd of share. Learned advocate said that land given in schedule of plaint has been prepared by applicant and name of boundary persons given are incorrect. Further, schedule of this plaint doesn't match with schedule of land given in civil court. He said that Geneological Table given by applicant is incomplete and so case suffers from non-Joinder of parties. Learned advocate refuted the allegation of applicant that members of joint family were

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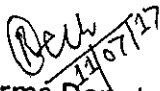
dishonest & applicant's father had done any welfare work for family. Learned advocate also refuted the allegation of applicant, that op has broken their ridge at field and alleged that applicant has also filed cases in SDM court, Arwal for harassing these opposite parties. Learned advocate while arguing in court said that no cause of action is mentioned by applicant. Further, applicant has not given detail schedule of land as produced in civil court. He informed that 'Bakshish' given in civil court was dismissed and case filed in this court is not related to boundary dispute but it is for implementation of partition suit done by civil court. So learned advocate pleaded that case is fit for civil court where issues like share of applicant and its implementation of order can be done. so finally pleaded for dropping the proceeding in this court.


Heard the learned advocate and perused the documents available on record. Applicants has submitted photocopy of partition suit No-291/73, revenue receipt, khatiyān where as opposite parties has submitted rulings of honourable High court, Patna. After looking the decree of learned sub-judge Jehanabad, Gaya in partition suit No-291/73, Jai Nandan Singh & other vrs Rama Nand Singh & others, it is found that Ram Vilas Singh has gifted his share of land to Birendra Singh S/o Jai Nandan Singh. The learned civil court had directed to survey knowing pleader commissioner for carving out shares of plaintiff Sri Jai Nandan Singh & Ram Vilas Singh (op-07) jointly at spot. However, learned court has decree that lands purchased by Jai Nandan Singh in name of his wife, children or in own name, will not be included in joint family property. However, lands purchased in name of

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Rama Nandan Singh will considered to be joint property as he was "Karta" of joint family. Finally, it can be said that applicant of this case namely Birendra Singh & Narendra Singh S/o Late Jai Nandan Singh has right over $\frac{1}{2}$ (half) of share of land mentioned in schedule-02 of partition suit 291/73 and off springs of Ram Nand Singh & Jai Govind Singh has right over remaining half of share of joint family property. However, learned advocate of applicant stated in court that applicants are already in possession of half of total landed joint family property but recently opposite parties has broken the ridge of applicant's possessed land. So on basis of decree of civil court, it is directed that opposite parties should restore the dispossessed land of applicant and ridge of agricultural land of applicant which has been allegedly broken by opposite party should be restored as it was prior to filing of this case. Finally circle officer of kaler and Arwal are directed to implement the decree of civil court, Jehanabad given in P.S. No-291/1973.

Dictated and corrected


Land Reforms Deputy Collector
Arwal


Land Reforms Deputy Collector
Arwal.

