

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.
Miscellaneous Case No. 02/ 2017-18

Anandi Prasad- applicant

Vrs.

Sona Muni Devi & others- opposite parties

Present- Rakesh Kumar, DCLR

Learned Advocate of Applicant.

1. Md. Afsar Hamid.

2. Sri. Ramesh Prasad Singh.

Learned Advocate of Opposite Party.

1. Sri. Anil Sharma.

2. Sri. Dilip Kumar Singh.

3. Sri. Brij Behari Kumar.

ORDER

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

Schedule

| Khata | Plot | Area A-D | Boundary |
|-------|------|-------------|---|
| 672 | 5140 | 0-18 | N-Road. S-Niz (Anandi Prasad.) E-Sanjay Prasad. W-Shiv Dayal Prasad. |

Mauza+PS+Anchal-Karpi, Dist-Arwal.

The learned advocate of applicant submitted that case has been filed in this court against the stay order of then circle officer Sri Arvind Kumar as applicant was constructing on land mentioned in schedule though land belongs to applicant. He said that at the time of filing the case, this court was barred to pass any order related to raiyati land under B.L.D.R Act. So it was filed

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as miscellaneous case. Learned advocate said that land mentioned in schedule is purchased land of applicant. He said that applicant's father Guru Prasad Sao had purchased the land mentioned in schedule from all successors of Imreet Dom through kewala No-1795 dated 12.04.1939 and accordingly applicant's family has peaceful possession, right & title over that land. Learned advocate informed that children of Guru Prasad Sao had partitioned their parental property in year 1990 and land mentioned in schedule came into share of applicant's family. He also informed that on said land, residential building of applicant exists and it was rented to police station karpi as per Bihar Building rent control Act & applicant has receipts as proof for received rent from dept of police and had received electricity & Licence for Granary shop as per rule and all these facts proves possession of applicant. However, when police shifted to new constructed Government building then building of applicant was used as "Gola" i.e. storage building and it is known to all local people. Learned advocate said that Sona Muni Devi W/o Lallan Ram Dom (op-01) and Lallan Ram Dom S/o Late Heera Dom (op-02) or their ancestors never had possession over the said land after year 1939. He alleged that due to dirty local politics, op-02 gave an application to then circle officer on 27.12.2016 for getting possession over said land. However, then circle officer without any proper enquiry wrote a letter No-1029 dated 27.12.2016 to S.H.O. Karpi for staying construction

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work being done by applicant on his land. Learned advocate said that applicant has double storied building in area of 13 desimals, on khata & plot, mentioned in schedule in which applicant's family has been peacefully residing. However, in remaining area as stated was an old building which was turned into "Gola" was demolished by applicant for reconstructing new building but it was illegally stoped by then circle officer karpi. Learned advocate said that order of circle officer karpi dated 27.12.2016 is against natural justice, illegal & it is ultra viros and without any provision of law. Learned advocate also mentioned about Record of Rights where "Gair Mazurwa Mokirdar- Bykabza Imreet Dom Makan Mai Sahan" is shown and applicant's father Babu Guru Prasad S/O Jaipal sao had purchased from successors of Imreet Dom and accordingly his vendors were Manwa Devi W/O Bulaki Dom and her children Sukhari Dom, Shiv Sharan Dom & Narain Dom. Learned advocate is of view that if there is dispute related to possession then it should be decided U/S 145 of crpc by court of SDM or if there is issues related to Title & recovery of possession then it is to be decided by civil courts. So learned circle officer had no right to put injunction on construction work of applicant. So his order is biased & ili motivated and alleged that then circle officer had habbit of creating trouble in his circle. Learned advocate quoted the letter No-744 dated 11.09.2017 of present circle officer namely Jagdish Paswan and said that as per report purchaser Guru

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Prasad Sao had six sons and land mentioned in schedule came into share of one of the sons namely Krishna Prasad and accordingly revenue receipts are issued in his name and its "Jamabandi No is 82/05 and it is mentioned in Register-02 and said land is in possession of applicant. Learned circle officer karpri mentions that Lalan Dom (op-02) doesn't come under the category of First class in heritage as he is S/O Tapeswari Domin W/O Heera Dom D/O Shiv Sharan Dom. Further, one of the vendor of said land is Shiv Sharan Dom S/O Bulaki Dom, so the opposite parties has no right over disputed land. Learned advocate while arguing in court refuted the allegation of opposite parties that disputed land is Government land and said that Govt of Bihar acquired the land in 1950 and applicant has purchased it in 1939 and in this connection he quoted rules of Transfer of property Act & Registration Act. He said that op should have filed Title suit in civil court. He said that Govt could claim the land if applicant had inherited it through 'Hukumnama' then return was required. Learned advocate made mockery of statements made by op in their second written statements para-08, that since an area of disputed land is vacant, so they should be allotted 03 desimals of land as per provision of Govt. Learned advocate questioned, how can op demand parcha in land of applicant and insisted that op is inconsistent in their demand and any how wants to grab the land of applicant as they have no documentary evidence or

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physical possession over that land. Learned advocate also stated that Imrati Dom had possession over said land prior to year 1914 till the sale of land which was sold in 1939. So as per BT Act, even if it was govt land, it will be considered to be raiyati as per duration of possession of person. Learned advocate alleged that then circle officer was biased & passed the order in hurry with out sending any notice to applicant and didn't verify the truth. He claimed that applicant had purchased Iron rods, Bricks, cement & other materials for construction of building and all these has been wasted in due course of time. So he pleaded for vacating the injunction order of then circle officer as land belongs to applicant.

Learned advocate Sri Anil Sharma & Sri Brij Behari Kumar has submitted two sets of written statements. Learned advocate writes that opposite parties are landless and comes under category of "Mahadalit" and alleged that applicant's are not in possession of land as per their kewala and said that there is barren land on which applicant wants to construct building. He also alleged that kewala of applicants are forged & fabricated. He said that as per C.S. khatiyar, nature of land is Gair Mazurva" and its owner is Govt of Bihar. Learned advocate writes that vendors of applicant had no right to sale the said land nor applicant has right to construct, So injunction given by then circle officer is correct as opposite parties are progeny & successor of Imreet Dom S/O Rupan Dom.

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Learned advocate said that in an area of land mentioned in schedule, about 14 desimals are vacant, so they should be allotted at least 03 desimals of land for residential purpose 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 kewalas dated 12.04.1939, revenue receipts, order of SDM, Arwal, Lallan Prasad Sah vrs Raju Sao & others in case No-913/2010 U/S-144 of crpc, "Ekrarnama" related to partition in family, report of circle officer vide letter No-744 dated 11.09.2017 along with kewala, GT of both the parties, khatiyani & revenue receipts letters & receipts to prove that building existing on disputed land was rented to police station karpi, letter related to Licence for operating as trader as per Bihar Agricultural produce markets Act-1960 & certificates by Sujata Devi, Sarpanch Gram kutch-hary karpi & Janak Singh, Panchayat Samiti Sadasya of karpi part-01 to prove that applicant has possession over the said land, since at least last 40 yrs. However, op has submitted only photocopy of khatiyani. After looking these documents especially report of present circle officer karpi, it is found that applicant has possession over land mentioned in schedule since 1939 and opposite parties whose fore fathers has already sold it to ancestors of applicant are unnecessarily claiming the land. It seems that opposite parties any how wants 03 desimals for

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residential purpose though at present they are residing in Indira.Awas and between both the parties there is concrete wall which separates them. Further, opposite party Lallan Ram Dom is in Bihar Government Job posted presently in Bansi Block, Dist-Arwal, though personally he can not be given "Parcha" but now it seems that they have extended family, so they needs more Homestead land. So in this case it seems that then circle officer had given injunction order on said land with out verifying the documentary & physical facts related to spot. So circle officer karpi is directed to give possession to applicant on basis of kewala dated 12.04.1939 and accordingly S.H.O. karpi should be directed to allow the applicant to construct on his purchased-land. However, circle officer karpi should also look into feasibility of allotting "Parcha" to opposite parties other extended family members in surrounding area on any other suitable land as per provision of Government of Bihar. Thus, injunction order of then circle officer is being vacated in favour of applicant as per report of present circle officer, karpi and opposite parties are directed not to interfere in land mentioned in schedule of plaint of this case.

Dictated and corrected

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Deputy Collector Land Reforms
Arwal

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Deputy Collector Land Reforms
Arwal.

