

Ramashray Giri and ors Vs. State and ors

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Court : Patna

Decided On : Aug-30-2013

Appellant : Ramashray Giri and ors

Respondent : State and ors

Judgement :

IN THE HIGH COURT OF JUDICATURE AT PATNA Civil Writ Jurisdiction Case
No.7325 of 1992

===== 1.
Ramashray Giri 2. Kalika Giri 3. Maheshwar Giri 4. Prabhunath Giri, all sons of
late Ganesh Giri, residents of Village- Sargatti Mathua, P.S. Garkha, District-
Saran Petitioner/s Versus 1. The State of Bihar.

2. The Commissioner of Saran Division, at Chapra.

3. The Additional Collector, Incharge Land Reforms, Chapra.

4. The Deputy Collector, Land Reforms, Chapra.

5. The Circle Officer, Garkha Block, District Saran 6. Raghubir Giri son of late Ram
Ekbal Giri, resident of Village Sargatti, Mathua, P.S. Garkha, Pragana Bal District-
Saran Respondent/s

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Appearance : For the Petitioner/s : Mr. Mahendra Prasad Bhartee, with Mr.
Shailendra Kumar Bhartee For the Respondent No.1 to 5 : None. For the

Respondent No. 6 : None.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA ORAL

JUDGMENT

Date:

30. 08-2013 Heard learned counsel for the petitioners. None appears on behalf of the respondent no. 1 to 5. None appears on behalf of the private respondent no.6 either despite valid service of notice upon him. The petitioners are aggrieved by the order dated 18.05.1989 (Annexure-4) passed in Mutation Revision Case No. 5 of 1988 by the respondent Additional Collector, Saran, whereby the aforesaid revision application filed on behalf of the respondent no.6 has been allowed and the orders passed by the respondent Anchal Adhikari, Garkha as also the respondent D. C. L. R., Chapra have been set aside. Learned counsel for the petitioners submits that on the basis of the petition filed on behalf of the petitioners for correction of Patna High Court CWJC No.7325 of 1992 dt.30-08-2013 2/3 Jamabandi with respect to the lands under dispute, Miscellaneous Case No. 3 of 1986-87 was started by the respondent Anchal Adhikari, Garkha and after hearing the parties, the prayer made on behalf of the petitioners was allowed by final order dated 01.10.1986 (Annexure-2). The respondent no. 6, being aggrieved by the aforesaid order, preferred Jamabandi correction Appeal No. 28 of 1986-87 before the respondent D.C.L.R, Chapra. By order dated 28.12.1987 (Annexure-3), the respondent D.C.L.R., Chapra, remanded the matter back to the respondent Anchal Adhikari, Garkha. It is highlighted that before any fresh order would be passed by the respondent Anchal Adhikari, Garkha, the respondent no.6 preferred Mutation Revision No. 5 of 1988 before the respondent Additional Collector, Saran, which has been allowed by the impugned order dated 18.05.1989 (Annexure-4) and the orders passed by respondent Circle Officer, Garkha and the respondent D.C.L.R., Chapra has been set aside. Learned counsel for the petitioners has submitted that in view of the order of remand made by the respondent D.C.L.R., the revision application filed by the respondent no. 6 ought not have been entertained by the respondent Additional Collector, Saran and he should not have set aside the order passed by the respondent Anchal Adhikari, Garkha. As noticed above, none has

appeared on behalf of the respondents and no counter affidavit has been filed on their behalf. After considering the entire materials available on record, this Court is of the opinion that the entire matters require reconsideration and fresh decision right from beginning, as admittedly, in view of the order of remand passed by the respondent D.C.L.R, Chapra, fresh decision was required to be taken by the respondent Anchal Adkhikari, Garkha, but that has not been done till date. Patna High Court CWJC No.7325 of 1992 dt.30-08-2013 3/3 For the reasons recorded above, the impugned original order dated 01.10.1986 (Annexure-2) passed in Miscellaneous Case No. 3 of 1984-87 by the respondent Anchal Adkhikari, Garkha, the impugned appellate order dated 28.12.1987 (Annexure-3) passed by the respondent D. C. L. R., Chapra in Jamabandi correction Appeal No. 28 of 1986-87 as also the impugned revisional order dated 18.05.1989 (Annexure-4) passed in Mutation Revision Case No. 5 of 1988 by the respondent Additional Collector, Saran, are hereby set aside and the matter is remitted back to the respondent Anchal Adhikari, Garkha for passing a fresh order with respect to the lands under dispute after giving reasonable opportunity of hearing to all concerned including the petitioners and the respondent no.6. In the result, this writ petition stands allowed to the extent indicated above. However, there shall be no order as to costs. (Birendra Prasad Verma, J) BTiwary/-

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