Mithelesh Kumar Singh and ors. Vs. State of Bihar and ors.

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Court : Patna

Decided On : May-14-1999

Judge : N. Pandey, J.

Appeal No. : C.W.J.C. No. 1472 of 1983

Appellant : Mithelesh Kumar Singh and ors.

Respondent : State of Bihar and ors.

Disposition : Application Allowed

Judgement :

N. Pandey, J.

1. This writ petition has been filed for quashing the order of the Director, Consolidation passed in Rev. Case No. 2744/86, contained in Annexure-3 whereby the order of the Deputy Director was set aside.

2. The dispute in this case, as would appear from the averments made in the writ petition, is with respect to C.S. Khata No. 61 C.S. Plot No. 105 area 1.15 acres and C.S. Plot No. 107 area 1.01 acres of village Dumra, Thana No. 208 Tauzi No. 5202 P.S. Karahgar, District Rohtas, which was originally recorded as fact/cast malik in the name of Dukhi Rao. The said tauzi was purchased by one Debi Prasad on 13-9-1954 in auction sale on account of non-payment of arrears of rent.

Later, Debi Prasad sold this land in favour of Shri Sheo Kewal Lal through a registered sale-deed dated 16-9-1954 and put the vendee in possession. Subsequently, the said land was settled by Shri Kewal Lal in favour of Deomuni Singh, father of the petitioners by virtue of the registered patta dated 6-11-1954 and since then, they have been coming in possession. At the time of vesting, the ex-landlord submitted return in favour of Deomuni Singh and Since then they have been coming in possession. At the time of vesting, the ex-landlord submitted return in favour of Deomuni Singh and ultimately, Jamabandi was prepared in his name. The respondent-Director allowed the claim of respondent Nos. 5 and 6 on the ground that at the time of auction, they were found in possession and accordingly, directed for necessary correction in the khatiyan, etc. He held that neither Deomuni Singh nor the auction-purchaser or the writ petitioners ever came in possession of the land. Therefore, neither the sale-deed nor the settlement we ever acted upon. Taking into consideration the aforesaid aspect as well as the case of the contesting respondent Nos. 5 and 6, revision petition was allowed.

3. It appears from the statement made in paragraphs 9 and 10 of the writ petition that previously title suit and revenue cases were also decided in favour of the petitioners and respondent No. 5 had lost. To appreciate the details of the cases, it would be proper to quote paragraphs 9 and 10 of the writ petition as under:

9. That several other touzis along with touzi No. 5202 had been auction-sold for the arrears of cess in the year 1954 which had been purchased by Devi Prasad. Some of the Maliks of some touzi filed Title Suit No. 51 of 1955 for setting aside the sale dated 13-9-1954, in the Court of 2nd Munsif, Sasaram, giving rise to T.S. No. 51 of 1955 respondent No. 5 was a party to that suit as defendant No. 7 and the settlee Deomuni Singh was defendant No. 24 in that suit, who had been impleaded on account of his being settler by Registered patta. The suit was hotly contested and ultimately, it was dismissed by judgment and decree dated 10-8-1956. T.A. No. 292/6 of 1956/57 was filed against the said decree, was also dismissed by judgment and decree dated 19-7-1987.

10. That besides, this the maliks of all the tauzis had filed objections against the auction sale-before the competent Revenue authority. The objection having failed,

they filed revenue sale Appeal No. 398 of 1954 in the Court of Commission of Patna Division, Patna, respondent No. 5 was appellant No. 20 in that appeal. Ultimately, after hearing of the parties, this appeal was also dismissed. Thereafter, the ex-landlords succumbed to their fate and left the matters. Now again respondent No. 5 as raised his head to snatch the lands back by illegal means and false statements.

4. Unfortunately, all these aspects have not at all been considered by the Director, Consolidation nor there was any attempt to find out the validity of the sale-deed and the deed of registered settlement or documents like Jamabandi return, Register-II, etc. The learned Director had proceeded purely on the basis that during inquiry, respondent Nos. 5 and 6 were found in possession.

5. In the background of the facts noticed above, I am of the view that the matter be considered afresh by the Director after extending opportunities to the parties to file their relevant documents regarding title and possession.

6. In the result, the impugned order as contained in Annexure-3 is set aside with a direction to the Director, Consolidation or the Joint Director, as the case may be, to decide the matter afresh after due notice to both the parties- This application is accordingly allowed to the extent indicated above. But, there shall be no order as to costs.