

In The Court of Commissioner, Saran Division, Chapra

Bhoodan Rent Fixation Rev. No. 356/2007

Most. Sabujan Nissa & ors.
Vrs.

The State of Bihar & Ors. .

ORDER

06.05.2016 - The instant revision petition is directed against the impugned order passed by Addl. Collector, Gopalganj in Bhoodan Rent Fixation Case No. 24/2005-06 on 13.04.2007.

The brief facts of the case are that one Md. Samassuddin (since died) R/o village- Asandepur, P.S.- Uchakagaon, Dist- Gopalganj filed a petitioner for rent fixation before C.O., Uchakagaon with a prayer that the land appertaining to R.S. plot No. 414, Khata No. 59, bearing Tauzi No. 3296 is recorded in khatiyani as Gair Mazurua parti kadim and the same was donated to the Bhoodan Yagna Committee by the Ex-landlord and later on Bhoodan Yagna settled the same and granted Parman Patra to the petitioner vide order dated 14.09.2002 to the extent of 2 decimal only out of the total area of R.S. Plot No. 414 and accordingly he came in possession and therefore rent for the said land be fixed. Thereafter, the C.O. Uchakagaon fixed the rent vide order dated 27.11.2003 vide Rent Fixation Case No. 15/2002-03. Then one Shekh Nasuruddin, the present O.P. No. 4, filed an appeal bearing Rent Fixation Appeal No. 24/05-06 before Collector, Gopalganj and subsequently the said appeal was disposed of by learned Addl. Collector, vide order dated 13.04.2007 wherein he held that the Jamabandi running in the name of present O.P. No. 4 (appellant before Addl. Collector) can be treated as correct and he further directed the C.O., Uchakagaon to send a proposal for cancellation of Jamabandis running in the name of present petitioner and also for cancellation of the confirmation of the settlement made by the Bhoodan Committee. Feeling aggrieved by the said order, a revision petition was preferred by the Md. Samasuddin before this court. Meanwhile, during the pendency of this revision petition before this court, the original petitioner died as such his legal representative have been substituted as petitioners in the case.

Heard the learned counsel for the parties.

The learned senior counsel appearing on behalf of the petitioners submitted in details as to how the Ex-landlord donated the said disputed land to the Bhoodan Yagna Committee and in turn the Bhoodan Committee settled 02 decimal land to the original petitioner and thereafter Jamabandi was created and even the C.O. Uchakagaon fixed the rent also for the said land. The learned counsel further submitted that although a favorable order was passed in favour of the petitioner with respect to the rent fixation by C.O., Uchakagon but the learned Addl. Collector, reversed the order in appeal and also ordered for the cancellation of Jamabandi. He further assailed the impugned order of Addl. Collector by saying that he has not properly discussed the facts as well as law involved in the case and the findings arrived at is mostly based on probability. He further argued that the learned Addl. Collector did not give any specific reason for his said findings, so far as the genuines of the Bhoodan Parman Patra is concerned. He lastly submitted that the impugned order suffers from the vice of arbitrariness as such the said order is fit to be set aside and this revision petition be allowed.

The learned counsel appearing on behalf of O.P. No. 4, while opposing the arguments advanced by the learned counsel for the petitioners, submitted that the disputed land has been coming in possession of the present O.P. No. 4 since 1937 and in past a proceeding u/s 144 cr.pc. was started which was later on converted into u/s 145 cr.p.c. and subsequently the same was decided in favour of the O.P. No. 4. He further submitted that the petitioner has already filed a T.S. No. 77/2007 in the court of Munsif, Gopalganj for declaration of title and recovery of possession and further contended that it is a settled principle of law that if the civil suit is pending, the revenue court is not empowered to pass any appropriate order. He further submitted that the said T.S. No. 77/2007 has been dismissed in default against which a Title Appeal No. 02/2013 has been filed which is pending before the session judge and in support of above contentions

he filed photocopies of certified copies of order and memorandum of appeal petition. He further argued that the local authorities like C.O. and C.I. in their local inspection have found the possession of O.P. No. 4 over the disputed land which was settled to his ancestor by the Ex-landlord. He lastly submitted that as the title appeal case with respect to the disputed land is pending before civil court, in that situation revenue court has got no jurisdiction to pass any order as such this revision petition be dismissed.

The learned counsel appearing for O.P. No. 5 (intervener) submitted that R.S. plot No. 414 lies in northern portion of R.S. plot No. 413 and 415 and this o.p. has got his old residential house in R.S. Plot No. 415 and the said disputed land, plot No. 414 was being used by his ancestor as approach road from their house to reach on village road and Bhoodan Yagna Committee had never settled the said 02 decimal land to anybody rather the same was being used as Rasta. He further submitted that the dispute of Rasta has already been decided by civil court and the said finding his binding on revenue court.

The learned Govt. pleader appearing on behalf of the state submitted that the learned Addl. Collector has rightly held that the dispute between the parties can be resolved only by the competent civil court as the parties are claiming their right over the said land on the basis of alleged settlement stated to have been made by Ex-landlord or through Bhoodan Yagna Committee. He also categorically stated that old Jamabandi standing in the name of any person on the basis of return submitted by Ex-landlord can not be canceled or modified by the revenue authorities rather the said power is vested in the competent civil court. He further said that from the impugned order dated 13.04.2007, it appears that the Jamabandi in favour of respondent was created on the basis of Jamanabdi submitted by the Ex-landlord as such the impugned order of Addl. Collector is a valid and legal order so the same must be upheld.

Considering the facts and circumstances of the case, material available on records, claims and counter claims made by the learned counsel at the time of oral arguments and in their written statements filed subsequently and on perusal of the impugned order, it is seen that both parties lay their claim over the disputed land on the basis of alleged settlement stated to have been made by the Ex-landlord or the Bhoodan Yagna Committee. It is also seen that the learned Addl. Collector has dealt with the matter reasonably while arriving at his final findings of fact by considering the relevant documentary evidence. It is also an admitted fact by the parties that for the said dispute a Title Appeal Case is pending for hearing before the competent civil court. The learned counsel for the petitioners have miserably failed to point out any specific illegality in the impugned order of Addl. Collector so as to give an opportunity to this court to make any interference with the said order. The learned G.P. is of the view that the revenue authorities are not competent to cancel the long running Jamabandi which has been created on the basis of return filed by the Ex-landlord. I certainly find some merit in the said view of the learned G.P.

Thus, for the aforementioned reasons, the impugned order of learned Addl. Collector is upheld and this revision application is dismissed accordingly.

Dictated and Corrected by me.

b-5-16
Commissioner,
Saran Division, Chapra

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Commissioner,
Saran Division, Chapra