

In the Court of the Sub Judge-II, Benipur

Present:- Pranav Kumar Bharti

Title Suit No.-20 of 2019, Registration No.-24/19

Bir Chandra Jha & Others vs. The State of Bihar & Others

08-04-2022

Case is called out and record is produced before me. A Wakaltan hazari is filed on behalf of the Plaintiff, while defendants are absent. Perused the case record. On perusal of the case record, it appears to the Court that this suit has been fixed for order on petition dated-14.12.2021 filed on behalf of the plaintiff U/O-XXXIX, Rule-7 of the Civil Procedure Code herein after referred as the C.P.C. In this petition, it has been submitted that plaintiffs have filed this instant suit for declaration of title of the suit land detailed in schedule-III & IV of the plaint in their favour and against the defendant 1st party. Further submission of the plaintiff is that the plaintiffs also filed the instant suit for declaring the Revisional Survey entry as embodied in Revisional Survey Khatiyani in respect of the suit land is illegal and void ab initio. It is needful to mention here that upon the schedule-III of the plaint which is the part of the suit land and the father of the plaintiffs had planted several trees which are continuing and presently standing upon the same which are under continuous possession of the plaintiffs from the time of their ancestors in the knowledge of the general people of the vicinity as well as in the knowledge of the defendant. Similarly, upon the schedule-IV of the plaint which is the part of the suit land, the plaintiffs have their residential establishment in the year 1980 and since then they are living in it with their family member without any let and hindrance in the knowledge of the defendants as well as in the knowledge of the people of the vicinity. It is further submitted that during the course of Revisional Survey operation, the Revisional Survey Authority finding the possession of the plaintiffs upon suit the land and illegally and malafiedly prepared the Revisional Survey Khatiyani as Anabad Bihar Sarkar and Anabad Sarv Sadharanand in remark column embodied the name of the ancestors of the plaintiffs which is out of actual state of affairs on spot. Further on the basis of illegal entry made in Revisional Survey Khatiyani regarding the suit land, the defendants started to raise illegal claim upon the suit land.

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For this plaintiffs have to file the instant suit for the redressal of their grievances. It is further submitted that at this juncture during the pendency of the instant suit, the defendant no.-2 wants to dispossess the plaintiffs from the suit land. For this plaintiffs are afraid and fearful. In the supra dictus circumstance, the plaintiffs have to file a petition for temporary injunction before the learned Court for restraining the defendants from interfering in the suit land which is in the possession of the plaintiffs during the pendency of the instant suit and for this, it is necessary to bring the status quo of the suit land on record. Therefore, the instant petition has been filed by the plaintiffs for kind consideration of the learned Court and Ld. Court be pleased to appoint a Pleader Commissioner for reporting on the points given below-

A.-Present status quo of the suit land

B.-Any other point or points to which the Ld. Commissioner deems fit and proper in respect of the suit land be reported.

No rejoinder petition has been filed on behalf of the defendants on petition dated-14.12.2021.

Heard the learned counsel of plaintiff, but on repeated call nobody turned up on behalf of the defendants. Perused the case record. On hearing and perusal of the case record, it appears that this instant suit has been running at the stage for filling the original documents and suggestive issue, this instant petition U/O-XXXIX,Rule-7 of the C.P.C. was filed on behalf of the plaintiff.

Submission of the plaintiff is that the defendant no.-2 wants to dispossess the plaintiffs from the suit land and to restrain the defendant no.-2 from dispossessing the plaintiffs from suit land during the pendency of the suit and for this very purpose, plaintiffs have to file a petition for temporary injunction. Therefore, a petition U/O-XXXIX, Rule-7 of the C.P.C. was filed on behalf of the plaintiff to bring the status quo of the suit land on record.

On hearing and perusal of the case record, the Court is of opinion that within the meaning of Order XXXIX,Rule-7, Court may appoint any person for the

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detention,preservation or inspection of any property which is the subject matter of such suit or as to which any question may arise therein. Therefore, considering urgency as stipulated U/O- XXXIX,Rule-8(3) of the C.P.C., the Court is inclined with the contention of the learned counsel of the plaintiff. Thus, petition dated-14.12.2021 filed on behalf of the plaintiff is allowed. Further, the Commissioner so appointed by this order will submit the report regarding the present status quo of the suit land within one month from appointment. Plaintiff is directed to deposit the sum of Rs.-1000/- in Nazarat as fee of the Pleader Commissioner.

Thus, petition dated- 14.12.2021 filed on behalf of the plaintiff is disposed of as accordingly.

Fixing on ...19-04-22..... for filling the original documents and suggestive issue also to deposit the fee.

Dictated
D.
Sub Judge-II
08.4.22

