

In the Court of Addl. Sessions Judge – VII, Gaya

T. A. 11/15
16/06

ORDER

25.07.2019

1. The appellants filed an application dated 23-07-16 U/o 41 Rule 27 and Section 151 praying for additional document to be taken on record against which the respondent State of Bihar has filed objection on 04-05-19.

2. It is submitted by the appellants that at the time of filing suit in the learned Court below the appellants merely depended upon the return filed by ex-landlord Rabindra Nath Bajpai in a compensation case (who is the descendent of Ram Charan Bajpai) to prove that the land is disputed were raiyati land and the ancestors of appellants were raiyats of Ex-landlord. But the Khatiyan filed in the learned Court below showed the name of one Wasudeo Narayan Singh and other being ex-landlord. Hence, the title suit was dismissed by the learned Court below by holding that Vijay Prakash Bajpai, who is said to have settled the land in dispute in favour of the ancestors of the appellants, was not entitled to settle this land and any settlement of such land by him had no force in the eyes of law.

3. The document proposed to be taken in additional evidence by the present application is the Khewat (record of rights of ex-landlord prepared much before the vesting of Zamindari under Bihar Land Reforms Act 1950) bearing the name of Ram Charan Bajpai at serial No. 2 as being owner of 9 Arms, 12 Dam and 14 Kauri (Ravindra Nath Bajpai was descendant of Ram Charan Bajpai and Vijay Prakash Bajpai (who is said to have settled the land) was nephew of Ravindra Nath Bajpai.

4. It is also submitted by the appellants that despite due diligence the

appellants could not have obtained the said Khewat as they had no knowledge of existence of Khewat nor ever had any information about such Khewat either by ex-landlord to the ancestors of the appellants or by the ancestors of the appellants to the appellants.

5. It is also submitted by the appellants that the said document is a necessary document to prove that the descendant of Ram Charan Bajpai were the ex-landlord of the suit land who had right to settle the suit land to the ancestors of the appellants in the year 1930 and 1945.

6. The respondent, State of Bihar, by filing rejoinder petition objected vehemently asserting that the petition is neither maintainable in law nor on facts and it is filed only with a view to fulfill the lacuna which are described in the judgement of Ld. Lower Court.

7. Since, in this case the Khewat is a necessary document to prove the right, title and interest of the transfer and there is nothing on record to show that the appellant/applicant was negligent to brought it on record during the proceedings before the trial court. I think it proper and in the interest of Justice to allow the application. Accordingly, the application dated 23-07-16 is hereby allowed and the additional document is hereby admitted and is directed to be marked. The respondent is also at liberty to adduce evidence in rebuttal. Put up on 26-08-19 for further step.

(Dictated)

Sd/-
(Namrata Tiwary)
Addl. Sessions Judge-VII,
Gaya
25.07.2019