

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6893 of 1995

=====

Md.Firoj son of late Abdul Hafiz resident of village Hajipur, Police Station Rafiganj, District-Aurangabad.

.... Petitioner

Versus

1. The State of Bihar
2. The Additional Collector, Aurangabad.
3. The Deputy Collector Land Reforms, Aurangabad.
4. The Anchaladhikari, Rafiganj, Aurangabad.
5. Md. Mahtab Alam
6. Md. Aftab Alam
7. Md. Sohrab Alam
8. Md. Naushad Alam

Respondent 5 to 8 are sons of late Sk. Mojibul Haque, resident of village Hajipur, Police Station Rafiganj, District Aurangabad.

.... Respondents

=====

Appearance:

For the Petitioner : Mr. Bhanu Pratap Singh, Advocate.

For the Respondents : Mr. Kamlesh Kishore AC to GP2

=====

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 16-04-2015

Heard learned counsel for the petitioner and the private respondents.

The present writ application arises out a mutation proceeding. The petitioner claims to be the nephew of one Bibi Chanda Khatoon whereas the private respondents claim themselves the sons of Bibi Chanda Khatoon. According to the writ petitioner, the subject land appertaining to C.S. plot nos. 46, 47 and 48 comprised in several plots measuring a total area of 3.98 and ½ acres was gifted by Bibi Chanda Khatoon in his favour in 1987. The case of the private respondents, on the other hand, is that the said deed of gift is forged and fabricated. Bibi Chanda Khatoon executed a deed of gift in favour of her sons on 21.9.1989. In such



circumstance, the respondents filed an application before the respondent Circle Officer for mutation of their names in the revenue records giving rise to mutation case no. 428 of 1992-93. The Circle Officer allowed the said application vide order dated 21.4.1993 (Annexure-1). Dissatisfied therewith the petitioners filed an appeal before the Deputy Collector Land Reforms, Aurangabad giving rise to Mutation Appeal no. 59 of 1993-94/39 of 1994-95. The appellate Court held that the Circle Officer acted without jurisdiction and set aside the order of the Circle Officer vide order dated 30.09.1994 (Annexure-2). Aggrieved thereby the respondents filed the revision vide revision case no. 56 of 1994-95. The said revision application was considered by respondent- Additional Collector who by order dated 17.8.1995 (Annexure-3) disposed of the same and remitted the matter back to the Court of Circle Officer for fresh consideration /adjudication. In such circumstance, the petitioner has filed the present writ petition.

The writ petition was admitted to hearing without granting any interim relief. Both the counsels are unable to apprise the Court about the status of the matter which was remitted to the Circle officer by the revisional Court. It has been agreed at Bar, and rightly so, that validity of a document cannot be examined and declared null and void by the revenue court. This is a case where intrinsically the title over the subject land is in dispute. Both the

parties claim title over the subject land by virtue of deed of gift executed by Bibi Chanda Khatoon. The case of the petitioner is that the deed of gift executed in favour of the respondents (sons of Bibi Chanda Khatoon) is forged and fabricated whereas the claim of the respondents is that the deed of gift executed in favour of the petitioner (nephew of the Bibi Chanda Khatoon) is forged and fabricated . It is settled beyond cavil that mutation in revenue records neither creates nor extinguishes title.

Considering the submissions of the parties, this Court is satisfied that the writ petition be disposed of by observing that whoever is aggrieved by the order may approach the Court of competent civil jurisdiction for declaration of his/their right, title and interest over the subject land. In case any such suit is filed the order passed by the revenue Court either in favour of the petitioner or the private respondents shall not inure to his/their benefit. In that event the mutation in respect of the subject land shall abide by the decision of the Court.

(Kishore Kumar Mandal, J)

Shyam/-

U			
---	--	--	--