

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8698 of 1994

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Bhola Singh, son of Late Janaki Singh, resident of village – Khanwan,
P.S. – Narahat, District – Nawada.

.... Petitioner

Versus

1. The State of Bihar
2. Kamala Devi, wife of Late Mano Singh, resident of village –
Khanwan, P.S. – Narahat, District – Nawadah.
3. The Anchal Adhikari, Narahat Anchal, P.S. – Nawdah, District –
Nawadah.
4. The Additional Collector, Nawadah, P.S. – Nawadah, District –
Nawadah.

.... Respondents

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

ORAL JUDGMENT

Date: 16-04-2015

When the case was called out for final hearing, neither the petitioner nor the respondent no. 2, private contesting respondent were present. Learned counsel for the State is present.

2. There is a counter affidavit filed on behalf of the State which is on record. This is a matter purely with regard to mutation. Writ petitioner claims that his brother Late Mano Singh died without solemnizing any marriage. His claim is that respondent no. 2 wrongly claimed before the mutation authorities that she was the widow of Late Mano Singh and wrongly got properties in the share of Mano Singh mutated in her name. Writ petitioner further claims that he came to know the mutation proceeding only after final order was passed. He accordingly challenged the order in

appeal without success and hence he has come to this court.



3. Mr. Harsh Singh, learned counsel for the State points out that mutation proceedings related only to maintenance of revenue records for the purposes of the suit. They do not confer title. If the writ petitioner contests the right, title and interest of respondent no. 2 namely, Kamla Devi, the proper remedy for him under the circumstances would be to file a Title Suit and get his title declared over the properties. He further points out that from the order of the Mutation Officer which has been annexed to the writ petition as Annexure – 1, it is evident that the writ petitioner was duly represented all along in the proceedings. There is no averment either before the authorities or by any application before the authorities or in the present writ application that the order-sheet does not reflect these two state of affairs. The proper course for the writ petitioner was to apply to Mutation Officer itself for correction of its record before proceeding in the matter. Not having done so, he is now stopped from pleading that he was not noticed or not represented.

4. Having considered the matter, in my view the submission is correct. Whether Mano Singh had married with Kamla Devi or not is a question which could be decided by the civil court upon dispute being raised.

5. In the mutation proceedings, writ petitioner had appeared. If the writ petitioner states that he had not appeared and

order-sheet wrongly recorded this fact, I am of the view, the proper course was that the writ petitioner should have applied to the same before authority for correction of records. That is a well settled principle. It is only if authority had refused to correct the records the matter could have progressed. That not having been done, the writ petitioner cannot be heard saying that he had no notice of the proceedings. Secondly, mutation proceedings are only for the purposes of revenue records. They confer no right, title and interest.

6. If the writ petitioner wants to challenge the right, title and interest of respondent no. 2, the proper course would be to institute a suit in a civil court and get his right, title and interest declared.

7. In that view of the matter, I find no merit in this application. It is, accordingly, dismissed.

(Navaniti Prasad Singh, J.)

Rajeev/NAFR

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