

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7335 of 1996

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1. Savitri Devi
2. Math Devi
3. Sushila Devi
4. Sandhya Devi and
5. Gita Devi, all daughters of Prem Prasad Singh, resident of Mohalla Chakwara, Police station hajipur town, district Vaishali
6. Raj Ratan Kumar, son of late Babulal Singh, resident of Mohalla Chakwara, Police station hajipur town, district Vaishali

.... Petitioners

Versus

1. Commissioner, Tirhut Division, Muzaffarpur
2. Collector, Vaishali at Hajipur
3. Deputy Collector, Land Reforms, Hajipur, Vaishali
4. Anchal Adhikari, Hajipur Anchal
5. Shiv Ratti Devi, wife of Jagdish Singh
6. Jagdish Singh son of Nathuni Singh and
7. Ambika Singh, son of Mehar Chand Singh, all resident of village Lodipur police station Hajipur Town, district Vaishali

.... Respondents

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Appearance :

For the Petitioners : Mr. Naresh Chandra Verma, Advocate
For the State : Mrs. Veena Kumaari Jaiswal, Advocate

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

9 23-04-2015 The petitioners have challenged order dated 12.4.1996, passed by the commissioner, Tirhut Division, Muzaffarpur in Mutation Revision No.117 & 118 of 1992-93.

Learned counsel for the petitioners submits that they had filed Mutation case nos. 739 & 740 of 1991-92 before the Circle Officer, Hajipur for mutating their names with respect to the lands in question which was rejected. Thereafter they filed appeal before DCLR, Hajipur bearing Appeal No.31 & 32 of 1992 which was rejected vide order dated 16.12.1991. Being aggrieved, the petitioners preferred Revision case no. 147 &

148 of 1992 which was allowed by the Collector, Vaishali vide order dated 17.7.1992/27.8.1992. Now it was the turn of the respondents. They filed Revision no. 117 & 118 of 1992-93 before the Commissioner, Tirhuit Division, Muzaffarpur which was allowed. Learned counsel submits that order of the Commissioner is without jurisdiction as no second appeal was permissible after 18.7.1989 in view of the Bihar Tenant Holdings (Maintenance of Records) Act, 1973 (Bihar Act 28 of 1975).

I find substance in the submission of the petitioner. Before 1973 Act, the Commissioner was entitled to hear second appeal under section 17 of the Act which Act has been deleted by the aforesaid new Act being effective from 18.7.1989.

The writ petition succeeds and order 12.4.1996, passed by the commissioner, Trihut Division, Muzaffarpur in Mutation Revision No.117 & 118 of 1992-93 is set aside.

Passing of the order will not come in the way of respondents in challenging the order in question before appropriate forum.

(Samarendra Pratap Singh, J)

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