

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.760 of 2014

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1. Jalalluddin Mian Son Of Nijamul Mian Resident Of Village Bahera, P.S. Kudra, District Kaimur
 2. Kyamuddin Ansari Son Of Nijamul Mian Resident Of Village Bahera, P.S. Kudra, District Kaimur
 3. Kasim Ansari Son Of Nijamul Mian Resident Of Village Bahera, P.S. Kudra, District Kaimur
 4. Rafique Son Of Nijamul Mian Resident Of Village Bahera, P.S. Kudra, District Kaimur
 5. Safiq Ansari Son Of Nijamul Mian Resident Of Village Bahera, P.S. Kudra, District Kaimur
 6. Qurban Mian Son Of Late Dhanu Mian Resident Of Village Bahera, P.S. Kudra, District Kaimur

.... Petitioner/s

Versus

1. The State Of Bihar Through The Collector, Kishanganj
2. The Additional Collector, District Kaimur
3. The Deputy Collector Land Reforms, Mohania, Dist. Kaimur
4. The Anchal Adhikari, Kudra, District Kaimur
5. Haribansh Choubey Son Of Late Nand Lal Choubey Resident Of Village Chataon, Pharkarbal, P.S. Kudra, District Kaimur
6. Ram Bachan Singh Son Of Balroop Singh Resident Of Village Phakarbad, P.S. Kudra, District Kaimur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. SATISH KUMAR SINHA
For the Respondent/s : Mr. Sanjeet Kumar Singh, A.C. to AAG.-10
For the Respondent no. 5 and 6: Mr. Abhya Kumar

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 03-02-2015

Heard the parties.

The petitioners, claiming themselves to be purchasers of the suit land from the husband of respondent no. 5 in the year 1977, made an application for mutation in the year 2008. The Circle Officer allowed the said mutation application vide order dated 3.9.2009.



Aggrieved thereby, the respondent no. 5 filed an appeal vide Appeal No. 63 of 2009-10. The Appellate Court, on the basis of findings recorded therein, set aside the order passed by the Circle Officer vide order dated 27.8.2011 (Annexure-3). A revision was preferred thereagainst by the petitioners vide Revision No. 5/2011-12 which was also considered and rejected by a reasoned order dated 27.9.2012 (Annexure-4). The petitioners filed a writ petition challenging the order dated 27.9.2012 which was, however, permitted to be withdrawn. The petitioners thereafter moved the Bihar Land Tribunal constituted under the Bihar Land Tribunal Act, 2009 vide B.L.T. No. 207 of 2013. The same was also dismissed on 20.6.2013. Now the petitioners have approached this Court challenging those orders.

Counsel for the petitioners has submitted that the Circle Officer considered the case of the petitioners in right perspective that the sale deed was effected in favour of the ancestor of the petitioners by the husband of respondent no. 5 and he was in possession. The order passed by the Appellate Authority as well as the Revisional Authority taking a different view is contrary to law.

On the other hand, the private respondent, supporting the impugned order, contended that there is concurrent finding recorded by the Deputy Collector Land Reforms and by the Revisional Court that the sale deed was inoperative inasmuch as the consideration

money was not paid resulting in cancellation thereof. Further, it has been found that the vendor i.e. respondent continued in possession thereof.

Law is well settled. An order of mutation of the suit land neither creates nor extinguishes title. Whoever having semblance of title and found in possession would be entitled to be mutated for the purpose of payment of land rent to the State. The concurrent findings of two Courts below do not warrant to be interfered with in writ jurisdiction.

Agreeing with the submission of the respondent, the writ application is dismissed. Dismissal of this application shall, however, not preclude the petitioners from approaching the Court of competent civil jurisdiction for declaration of their right, title and interest. This Court would, however, clarify that in case the petitioners choose to file suit before the Civil Court any finding recorded by the authorities in the impugned orders would not prejudice the case of the petitioners.

(Kishore Kumar Mandal, J)

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