

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4218 of 2011

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Sri Ram Sharma S/O Sri Parash Sharma, R/O - Village Sudama Nagar, P.S.
- Bairiya District West Champaran

.... Petitioner/s

Versus

1. The State of Bihar through Collector West Champaran
2. Deputy Collector Land Reforms, Bhagalpur
3. Additional Collector, West Champaran
4. Circle Officer, Bairiya, West Champaran
5. Dhan Dayal Sharma S/O Late Dasarath Sharma R/O Village -
Phatuchchapar Tola, Sudama Nagar, P.O.- Bathana, P.S. Bairiya, District
West Champaran

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Dubey, Advocate

For the Respondent Nos. 1 to 4 : Mr. Subhash Pd. Singh, GA 7

Mr. Dilip Kumar, AC to GA 7

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 27-08-2015

Heard the parties.

2. The petitioner is aggrieved by order dated 10.01.2011 (Annexure-1) passed in Mutation Revision Case No. 221 of 2010-2011 by the respondent Additional Collector, West Champaran, Bettiah, whereby the aforesaid mutation revision filed on behalf of the respondent no.5 has been allowed and order dated 03.07.2009 (Annexure-2) passed in Mutation Case No. 412 to 428 of 2009-2010 by the respondent Anchal Adhikari, Bairiya as also the order dated 01.12.2009 (Annexure-4) passed in Mutation Appeal No. 33 of 2009-2010 by the respondent DCLR, Bettiah have been set aside and reversed on the ground that Partition Suit No. 228 of 2008 is pending between the parties before the learned Sub-Judge, Bettiah with respect to the lands under dispute.

3. Learned counsel appearing on behalf of the petitioner does not dispute the pendency of the aforesaid

Title Suit No. 228 of 2008, but he submits that in the aforesaid partition suit, no relief has been sought against the present petitioner. Therefore, the claim of the petitioner cannot be effectively decided in the aforesaid partition suit.

4. In the aforesaid facts and circumstances, the petitioner shall be at liberty to file a fresh civil suit for grant of appropriate relief regarding his right and title over the lands in question if effective relief can not be granted in the aforesaid pending partition suit.

5. . It is clarified that aforesaid pending Partition Suit No. 228 of 2008 or if a new suit is brought by the petitioner with respect to the lands in question after impleading all the necessary persons including respondent no.5 as party defendants, then the same shall be decided strictly in accordance with law on the basis of the evidences/materials produced by the parties, but without being influenced or prejudiced by any finding recorded by the revenue authorities either in favour of the petitioner or the respondent no.5 in the impugned mutation proceedings.

6. The parties shall be at liberty to raise all the issues of fact and law before the civil court, which may be available to them.

7. The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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