

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.307 of 2015

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Nagdeo Rai, son of Late Subalal Rai, village Bardiha Tukri, PS Patepur,
district vaishali

.... Petitioner/s

Versus

1. The State of Bihar,
2. Addl. Collector, Vaishali at Hjiipur.
3. Dy. Collector Land Reforms, Mahua, Vaishali.
4. Anchal Adhikari, Patepur Anchal, Dist. Vaishali.
5. Awadh Rai, son of Late Fatuli Rai,
6. Brajnandan Kumar, son of Awadh Rai, both of village Bardiha Turki,
PS Patepur, District Vaishali.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Shankar Das

For the Respondent/s : Mr. Gp32-Harish Kumar

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL ORDER

3 09-02-2015 Heard Mr. Das, learned counsel for the petitioner
and learned counsel for the State.

After purchase of the land from Brajnandan Kumar, one of the members of the joint family of Awadh Rai, the petitioner for mutation in respect thereof filed an application before the Circle Officer vide Mutation Case No. 2033/2007-08. The said application was allowed. Against that the respondents filed an appeal. The Deputy Collector Land Reforms found serious illegality in the procedure adopted by the Circle Officer in passing the order and set aside the same. A revision was filed by the petitioner against the said order which was rejected by the Additional Collector vide Annexure 4. The appeal filed by the

petitioner before the Bihar Land Tribunal was also rejected.

The contention of Mr. Das is that if there was non-compliance of the provisions of law, the authority should have remitted the matter back to the Circle Officer for a fresh order after giving a notice to the parties and after making local inspection to ascertain the physical possession. The petitioner in such circumstances should be granted liberty to approach the Circle Officer once again for mutation of his name who will dispose of the same on its own merit uninfluenced by the observation made in the revisional order as well as the order of the Collector.

The State counsel submits that the mutation of the name in the revenue register (Register II) neither creates nor extinguishes title. The petitioner should approach the court of competent jurisdiction for declaration of his right, title and interest.

Having heard learned counsel for the parties, this application is disposed of with a liberty to the petitioner to approach the Circle Officer afresh for mutation of his name and if any such application is filed, the Circle Officer may consider the same and dispose of the same in accordance with law after giving opportunity of hearing to the parties. It will also be open to the

petitioner to approach the civil court for declaration of his right, title and possession with respect to the subject land. In that event the order of mutation passed in favour of the petitioner shall be subject to the result of the suit.

(Kishore Kumar Mandal, J)

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