

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12689 of 2010

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1. Bali Singh S/O Late Ram Charitar Singh Village- Berhana, P.S. Barh, Distt.- Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Collector, Patna
3. Land Reforms, Deputy Collector, Barh
4. Circle Officer, Barh
5. Most. Pavitri Devi W/O Late Ram Swarup Singh @ Gujju Singh Barhana, P.S. Barh, Distt.- Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.K. Lal, Adv.
Mr. Pritish Kumar Lal, Adv.
Mr. Ashok Kashyap, Adv.
For the Respondent No. 5 : Mr. Bhola Prasad, Adv.
Mr. Satya Prakash, Adv.
For the State : Mr. Arun Kumar Prasad, S.C. to A.C. 7

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 10-08-2015

Heard Mr. S.K. Lal, learned counsel for the petitioner, learned counsel for the State and Mr. Bhola Prasad, learned counsel for the private respondent.

The petitioner is aggrieved by the order dated 8.8.2002/21.8.2002 passed by the Deputy Collector Land Reforms, Barh in Mutation Case No. 83 of 1998-99, a copy of which is placed at Annexure-4 to the writ petition whereby on a review of the matter, the claim of the private respondent for mutation in respect of 3 decimals of Khata No.609 Khesra No. 813 situated at Mauza Berhana in village-Berhana within the Barh block, District- Patna has been allowed.

Facts of the case briefly is stated that an application was filed by the private respondent No.5 claiming mutation in respect of the portion of the plot in



question. The application of the petitioner was forwarded with favourable recommendation by the Circle Officer, Berhana, Barh. The Circle Officer while making a recommendation has mentioned that although the plot in question is recorded in the Khatyan as admeasuring 18 decimals but on the basis of the map it measures 21 decimals and since the petitioner and one Rana Shiva Lakhpati Singh are in occupation of 9 decimals of the plot each hence an area of 3 decimals can be mutated in favour of the private respondent. The Deputy Collector Land Reforms directed for a measurement of the plot and which was carried out by the Circle Officer who this time rejected the claim of the private respondent on grounds that the area of the plot was only 18 decimals. The Deputy Collector Land Reforms vide order passed on 12.2.2002 thus rejected the claim of the private respondent. The private respondent thereafter filed a review application and which has since been allowed by the order dated 8.8.2002/21.8.2002. The petitioner being aggrieved approached this Court in C.W.J.C.No.9685 of 2003 which was disposed of with the direction to the petitioner to exhaust the alternative remedy available under Section 16 of the Bihar Tenants Holding (Maintenance of Records) Act, 1973 by filing revision before the prescribed authority. The petitioner filed his revision giving rise to Revision Case No. 34 of 2003-04 which was dismissed by the Collector, Patna on 18.12.2007 inter alia on grounds that the review order has been passed on factual appreciation of the matter and being aggrieved the petitioner is before this Court.

A very short argument has been advanced by Mr. Lal to contest the impugned orders, he submits that the exercise of power by the Deputy Collector Land Reforms in allowing the review application of the private respondent is without sanction of law for neither 'the Act' vests any power of review in any

statutory authority nor has the DCLR been conferred with any inherent powers. On these grounds that Mr. Lal submits that since the order on review is an exercise without jurisdiction and contrary to the statutory provisions it cannot be upheld and for the same reasons revisional order also has to go.

The argument of Mr. Lal has been contested by Mr. Bhola Prasad to submit that the finding of the DCLR is upon a verification of the facts available on ground and since the possession of the petitioner and the other person namely Rana Shiv Lakhpatri Singh has been found on 9 decimals of land each and the private respondent has not been charged with any encroachment on their property, the petitioner should have no grievance. He however, even while advancing the case of the private respondent could not justify the exercise of review jurisdiction by the Deputy Collector Land Reforms.

I have heard learned counsel for the parties and I have perused the materials on record.

The argument of Mr. Lal that the revenue authorities are not vested with powers of review stands concluded by a catena of judgments and the most recent being that of the Full Bench of this Court since reported in **2014 (4)PLJR 210 (Nand Kumar Thakur vs. The State of Bihar & Ors.)**.

The law is well settled and to refer to any other judgment would only lead to multiplication of the judgments on the issue that in absence of any statutory power the revenue authorities are not vested with any inherent powers of review.

The law being crystallized under the judgments of this Court more particularly in the Full Bench judgment referred to above, it would not detain this Court to hold that the order of the Deputy Collector Land Reforms dated 8.8.2002/21.8.2002 passed in Mutation Case No. 83 of 1988-89 (Pabitri Devi

Vs. Bali Singh) is an exercise in excess of jurisdiction for ‘the Act’ does not vest him with a power of review. The order thus cannot be upheld and is accordingly set aside and for the same reasons the order passed on 18.12.2007 in Revision Case No. 34 of 2003-04 affirming the order of the DCLR also becomes unsustainable and is set aside accordingly.

This order, however, would not preclude the private respondent to establish her title and possession by taking recourse to such other civil law remedy that may be available to her in law.

The writ petition is allowed with the observations aforementioned.

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(Jyoti Saran, J)