

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13827 of 2014

With

Interlocutory Application No.1493 of 2015

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Ram Bihari Paswan @ Bahur Paswan, son of Late Mishri Paswan, R/o
Village- Gayaspur, P.S.- Kusheshwar Asthan, Dist- Darbhanga

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department Revenue & Land Reforms, Government of Bihar, Patna
2. The District Magistrate, Darbhanga
3. The L.R.D.C., Biraul, Darbhanga
4. The Anchal Adhikari, Kusheshwar Asthan, Darbhanga
5. The Karamchari, West Anchal Kusheshwar Asthan, Darbhanga
6. Shri Krishna Jha son of Rama Kant Jha R/o Village- Hirni, P.S.- Kusheshwar Asthan, Darbhanga
7. Madhu Kant Jha son of Late Dukh Mochan Jha Resident of Village and P.O.- Hirni, P.S.- Kusheshwar Asthan, Darbhanga
8. Chandra Kishore Paswan son of Late Ram Dundar Paswan
9. Rajesh Paswan son of Sobha Paswan
10. Ram Uday Paswan son of Mahendra Paswan
11. Nanu Paswan son of Baleshwar Paswan
12. Ram Brichh Rai son of Mantoon Rai
13. Satrudhan Rai son of Mantoor Rai
14. Manju Devi wife of Shidheshwar Paswan
15. Nunu Devi wife of Ram Khelawan Rai
16. Bisho Paswan
17. Singheshwar Rai sons of Bhulai Paswan
18. Smt. Darya Devi wife of Faguni Paswan
19. Mina Devi wife of Bhado Paswan All (8) to (19) are Residents of Village- Gayaspur, P.O.- Hirni, P.S.- Kusheshwar Asthan Darbhanga
20. Sobha Devi wife of Raj Kumar Paswan Resident of Balsundai, P.S.- Kusheshwar Asthan, Darbhanga

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nand Kishore Prasad Sinha
For the Respondent nos.1to5 : Mr. Md. Harun Quareshi, AC to SC-18

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 22-09-2015 Heard learned counsel for the petitioner and learned
AC to SC-18 appearing on behalf of the respondent nos.1 to 5.

The petitioner has filed the present writ petition
under Article 226 of the Constitution of India seeking a direction

to the respondent Anchal Adhikari, Kusheshwar Asthan, Darbhanga for mutating the lands in question, fully detailed in para 1 of the writ petition, in his name.

Learned counsel appearing on behalf of the petitioner submits that the petitioner filed a petition before the respondent Anchal Adhikari for mutation of the lands in question in his favour, whereafter an enquiry report was called for and accordingly report was submitted, but till date the matter has not been disposed of.

I.A.No.1493 of 2015 has been filed on behalf of the petitioner for restraining the respondent nos.6 to 20 from making any interference in the peaceful possession of the petitioner over the lands in question.

Though, this writ petition was filed way back on 11.08.2014, but, despite passage of more than one year, the learned State counsel has not filed counter affidavit, yet he submitted that the petitioner has not brought on record all the relevant materials in support of his claim that he filed a proper petition for mutation of the lands in question under the provisions of The Bihar Land Mutation Act, 2011 (in short 'Act, 2011').

Despite repeated query made by this Court, learned counsel appearing on behalf of the petitioner has not been able to produce receipt showing filing of the petition before the respondent Anchal Adhikari under Section 3 of the Act, 2011. He is also not in a position to give case number of the mutation case.

At this stage, learned counsel appearing on behalf of the petitioner submits that, in fact, the case has not been registered as yet.

In above view, instead of keeping the present matter

pending before this Court awaiting counter affidavit from the respondents, this Court is of the opinion that interest of justice shall be sub-served, if the petitioner is granted liberty to file a fresh petition in the prescribed format before the respondent Anchal Adhikari under Section 3 of the Act, 2011 for mutation of the lands in question. It is ordered accordingly.

If an appropriate petition is filed under Section 3 of the Act, 2011 on behalf of the petitioner within a period of one month from today with a certified copy of the present order, then the respondent Anchal Adhikari shall be obliged to register the mutation case under the provisions of the Act, 2011 and shall decide the claim of the petitioner after giving an opportunity of hearing to all concerned including the private respondents strictly in accordance with law.

It goes without saying that, petition filed on behalf of the petitioner shall be decided in accordance with the procedure prescribed under the Act, 2011 and the rules made thereunder.

The parties shall be at liberty to raise all the issues of facts and law with respect to the lands in question before the respondent Anchal Adhikari.

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

(Birendra Prasad Verma, J)

Arvind/-

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