

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13043 of 2012

=====

1. Ghanshyam Sah S/O Krishna Dev Sah, resident of Village- Rajganj, P.S & P.O- Bihariganj, Distt- Madhepua,
2. Ajay Shah S/O Krishna Dev Sah, resident of Village- Rajganj, P.S & P.O- Bihariganj, Distt- Madhepua Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Revenue, Government of Bihar, Old Secretariat, Patna.
2. The Collector of the District Madhepura.
3. The Additional Collector, Collectorate Madhepura.
4. The Deputy Collector, Land Reforms Uda Kishuanganj, Distt- Madhepura.
5. The Anchal Adhikari, Bihariganj, Distt- Madhepura.
6. Geeta Devi W/O Sri Shambhu Sah, resident of Village- Rajganj, P.S & P.O- Bihariganj, Distt- Madhepua Respondent/s

=====

Appearance :

For the Petitioner/s : Mrs. Mira Kumari, Advocate
For the Respondent Nos.1 to 5: Mrs. Nutan Sahay, AC to GA 5
For the Respondent No. 6 : Mr.Dinesh Pd.Verma, Advocate
Mr.Rohit Kumar, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 29-09-2015

Heard the parties.

2. The petitioners are aggrieved by order dated 30.01.2012 (Annexure-4) passed in Mutation Revision Case No. 10 of 2009 by the respondent District Collector, Madhepura, whereby the aforesaid Mutation Revision application filed on behalf of the petitioners was mechanically disposed of without going into the merits of the claims of the parties and a direction was issued to the DCLR, Uda Kishuanganj to decide the claims of the parties under the provisions of The Bihar Land Disputes Resolution Rules, 2010 (in short, Rules, 2010).

3. Learned counsel appearing on behalf of the petitioners submits that originally the petitioners had filed a petition before the respondent Anchal Adhikari, Bihariganj for mutation of lands involved in the present proceeding in their



favour, which was finally allowed by order dated 15.12.2005. The respondent no.6, being aggrieved by the aforesaid order, preferred Mutation Appeal No. 43 of 2007-2008 which was finally allowed by the respondent DCLR, Uda Kishunganj by order dated 25.08.2009 (Annexure-3) and order passed by the respondent Anchal Adhikari, Bihariganj was set aside. It is contended that the petitioners, being aggrieved by the aforesaid appellate order, preferred Mutation Revision Case No.10 of 2009 before the respondent District Collector, Madhepura, which was mechanically disposed of by the impugned order dated 30.01.2012 directing the respondent DCLR, Uda Kishunganj to decide the claims of the parties under the provisions of the Rule, 2010. It is pleaded that the order impugned is not sustainable in law.

4. Learned State counsel appearing on behalf of the respondent nos. 1 to 5 and learned counsel appearing on behalf of the respondent no.6, though have opposed the prayer made on behalf of the petitioners, but have not been able to dispute that the respondent District Collector has disposed of the aforesaid revision case filed on behalf the petitioners mechanically by a cryptic order and without application of his independent judicial mind to the facts of the case.

5. After having heard the parties and taking into consideration the manner in which the impugned revisional order dated 30.01.2012 has been passed by the revisional authority, this Court is of the opinion that the matter requires re-consideration and a fresh decision by the respondent District Collector, Madhepura himself. Evidently, while disposing of the revision application filed on behalf of the petitioners, the respondent District Collector had not applied his independent judicial mind to

the of the case. For reversing/setting aside the order passed by the respondent DCLR, the respondent District Collector was required to record some valid reason, but that has not been done in the present case. The impugned revisional order is apparently illegal and arbitrary, and therefore, it cannot be countenanced.

6. For the reasons recorded above, the impugned revisional order dated 30.01.2012 passed in Mutation Revision Case No. 10 of 2009 by the respondent District Collector, Madhepura, as contained in Annexure-4, is hereby set aside and quashed, and the matter is remanded back to the respondent District Collector, Madhepura with a direction to decide aforesaid Mutation Revision case of the petitioners afresh strictly in accordance with law by a reasoned and speaking order, but before passing a fresh order, he shall be obliged to give reasonable opportunity of hearing to the petitioners as also the respondent no.6, besides others, if any.

7. In order to expedite the matter, the petitioners and the respondent no.6 are hereby directed to appear before the respondent District Collector, Madhepura with a certified copy of the present order within a period of six weeks from today whereafter the District Collector shall fix a firm date for deciding the aforesaid matter afresh and thereafter the revision case filed by the petitioners shall be decided in accordance with law on merits.

8. The writ petition stands allowed to the extent indicated above. However, the parties are left to bear their own costs.

(Birendra Prasad Verma, J)

Tahir/-

U			
---	--	--	--