IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1869 of 2014

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Ranglal Sah S/O Late Bishwanath Sah Resident Of Village- Parsiyan, P.O And P.S- Kochas, Distt- Rohtas.

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Collector, Rohtas.
3. The Deputy Collector, Land Reforms, Rohtas At Sasaram.
4. The Additional Collector, Rohtas At Sasaram.
5. The Circle Officer, Kochas Circle, Distt- Rohtas At Sasaram.
6. Chandrawali Devi W/O Sri Ram Sah Resident Of Village- Parsiyan, P.O And P.S- Kochas, Distt- Rohtas At Sasaram
7. Rajendra Sah S/O Ramkrit Sah Resident Of Village Kanjar, Ps- Kochas, District- Rohtas.
8. Rajendra Prasad Gupta @ Dipti Sah S/O Trivedi Sah Resident Of Village- Saroshar, P.O/P.S- Kochas, District- Rohtas At Sasaram.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Vivekanand Vivek
For the Respondent/s : Mr. Prasoon Sinha
For respondent no.6 Mr. Alok Kumar Agrawal
For the State Mr. Madhubala Verma, A.C. to G.A. 2

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT
Date: 13-02-2015

Heard Mr. Vivek for the petitioner and Mr. Alok Kumar Agrawal for the private respondent no.6 on whose behalf a counter affidavit has also been filed.

The petitioner made an application for mutation of his name in respect of a tract of land appertaining to plot no. 145 measuring 9.1/2 decimal. The same was considered and rejected vide order dated 13.03.2009 passed in Case No. 09/08-2009. Aggrieved thereby an appeal vide Mutation Appeal No. 176/2009 was preferred. The same was allowed and the matter was remanded to the Circle Officer. Accordingly,

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Misc. Case No. 10/09-10 was registered. The Circle Officer after hearing the parties allowed the claim of respondent no.6. Aggrieved thereby the petitioner filed an appeal which was allowed vide order dated 14.08.2012 passed in Mutation Appeal No. 37/11-12. The respondent no.6 filed revision thereagainst vide Mutation Revision No. 55/2012. It is noted that respondent no.6 claimed the subject land through a deed of gift executed in her favour by her husband who was one of the sons of Suryanath Sah. The petitioner also belongs to the family of Suryanath Sah. Dissatisfied with the aforesaid order the petitioner filed an application before the Bihar Land Tribunal constituted under the Bihar Land Tribunal Act, 2009 vide B.L.T. Case No. 436 of 2013. The same was considered and rejected.

I have heard the parties.

On perusal of the order passed by the revisional court as well as the Tribunal it appears that serious question of title is involved between the parties and a cloud has been created over the title of the petitioner by virtue of the order passed by the Additional Collector which got affirmed by the Tribunal. Law is well settled. An order of mutation in favour of a person neither creates nor extinguishes title. The Addl. Collector in his order rightly observed that the validity of the deed of gift cannot be gone into by the revenue authority in the mutation proceeding.

Having appreciated the materials on record, in my view, invocation of the writ jurisdiction would not be an appropriate exercise in the facts and circumstances of the case. It will be open to the parties to seek remedy before the civil court. Needless to observe that the order

of mutation which has been passed in favour of respondent no.6, in that event, shall abide by the decision of the Court.

The writ application is disposed of.

(Kishore Kumar Mandal, J)

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