

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.154 of 2013

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Braham Deo Mahto @ Mahanth Braham Deo Das, S/O Late Mahanth Parmeshwar Das, resident of Village- Bagras Ram Janki Thakurbari, P.S. Bakhri, District Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Begusarai.
3. The Additional Collector, Begusarai.
4. The Sub-divisional Magistrate cum Land Reforms Deputy Collector, Subdivision & Block- Bakhri, District Begusarai.
5. The Circle Officer, Bakhri Circle, District - Begusarai.
6. Sita Sharan @ Laxmi Narayan Mahto (Teacher), S/O Badri Mahto, resident of Village- Fafaut, P.S. Khodabandpur, District Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nakul Kumar Jamuar
For the Respondent-State : Mr. Jai Vardhan Narayan, AC to AAG-3
For private Respondent No.6 : Mr. Jyoti Ranjan Jha

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 24-07-2015

Heard Mr. Nakul Kumar Jamuar, learned counsel appearing on behalf of the petitioner, Mr. Jai Vardhan Narayan, learned Assisting Counsel to Additional Advocate General No.3 for the State and Mr. Jyoti Ranjan Jha, learned counsel appearing for the private respondent no.6.

This writ petition is directed against the order dated 16.6.2010 passed by the Additional Collector, Begusarai who, while exercising revisional power in Dakhil Kharij Appeal Case No.66 of 2007-08, has set aside the order dated 10.7.2007 passed by

the Sub-Divisional Magistrate –cum- Deputy Collector Land Reforms, Begusarai (hereinafter referred to as ‘the DCLR’) in Dakhil Kharij Appeal Case No.5 of 2006-07.

The facts of the matter as stated by the petitioner in brief is that the dispute pertains to land bearing khata no.32, khesra nos.137, 144, 233 and 338 in Mouza Bagres Harisingh, Thana no.263 and plot nos.418 and 489 of khata no.32 in Mauza Dhyan Chakki, Thana no.262 admeasuring 23 Bighas, 8 kathas and 5 dhurs which was mutated in the name of Bagras Ram Janki Thakurbari. The Jamabandi of the land in question was running in the name of Parmeshwar Das, Mahanth of Bagras Ram Janki Thakurbari and the petitioner claims to be a Chela of Parmeshwar Das. On an application made by the private respondent that the name of the petitioner was replaced in the revenue records. Being aggrieved the writ petitioner questioned the mutation in the name of the private respondent which was rejected by the Circle Officer and the same was questioned by the writ petitioner before ‘the DCLR’ in Dakhil Kharij Appeal Case No.5 of 2006-07. ‘The DCLR’ upon consideration of the facts and circumstances governing the issue vide order dated 10.7.2007 allowed the appeal of the writ petitioner and issued direction to the Circle Officer, Bakhari to delete the name of the private respondent from the jamabandi and restore the



jamabandi in the name of Bagres Ram Janki Thakurbari. The private respondent questioned the order passed by 'the DCLR' before the Additional Collector, in revision which was registered as Dakhil Kharij Appeal Case No.66 of 2007-08 and the Additional Collector vide impugned order passed on 16.6.2010 on a misconception that the appeal filed by the writ petitioner before 'the DCLR' was grossly barred by limitation and which had not been condoned by the appellate authority, held the order passed by 'the DCLR' unsustainable and set aside the same. The petitioner being aggrieved is before this Court.

Mr. Nakul Kumar Jamuar, learned counsel appearing on behalf of the petitioner while questioning the order passed by the revisional authority has taken to this Court to the appellate order placed at Annexure-2 passed by 'the DCLR' and with reference to the order dated 10.7.2007 he submits that it is only after condonation of delay that the appeal was admitted and notices have been issued to the private respondent by the appellate authority i.e. 'the DCLR' and thus the Additional Collector without verification of the records has passed the impugned order on a complete misconception of the factual position.

I have heard learned counsel for the parties and I have perused the records.



There is no dispute that the writ petitioner had questioned the order passed in favour of the private respondent granting him mutation under Dakhil Kharij Case No.17 of 1999-2000 vide order passed on 22.6.1999 after a lapse of almost 7 years before 'the DCLR' but it is also a matter of record that 'the DCLR' upon being satisfied by the explanation of delay advanced by the writ petitioner, had condoned the delay in filing the appeal while admitting the same and issuing notice to the private respondent as is evident from the order dated 10.7.2007 passed in the appeal. In that view of the matter, the order passed by the Additional Collector allowing the revision of the private respondent solely on grounds that the appeal of the writ petitioner before 'the DCLR' was grossly barred by limitation which has not been condoned, is an error of record and on misconception of facts.

For the reasons aforementioned the order dated 16.6.2010 passed by the Additional Collector, Begusarai in Dakhil Kharij Appeal Case No.66 of 2007-08 cannot be upheld and is accordingly set aside and the matter is remitted to the Additional Collector, Begusarai for its consideration afresh and disposal in accordance with law and after opportunity of hearing to the contesting parties.

Since the parties are in attendance through their counsel

they shall appear before the Additional Collector along with a copy of this order on 3.8.2015 when he shall proceed to dispose of the matter in the manner stipulated above.

The writ petition is allowed.

(Jyoti Saran, J)

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