

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14386 of 2005

1. Ramai Rai
2. Shivjee Rai
3. Kedar Rai

All sons of Late Charitar Rai, all residents of village padmaul Tole Dayalpur, P.S.
Kudhani, District Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner, Tirhut division, Muzaffarpur,
3. The Collector, Muzaffarpur
4. the Land Reforms Deputy Collector, Muzaffarpur (West)
5. the Anchal Adhikari, Kudhani, District Muzaffarpur
6. Bhulawan Rai, son of Khalawan Rai
7. Ram Shrestha Rai
8. Ramashray Rai
9. Ram lalit Rai
10. harendra Rai
11. Ravindra Rai

All sons of Bhulawan Rai

Resident of village Padmaul tola Dayalpur, P.S. Kudhani District Muzaffarpur

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Ansoy Bahadur Mathur

For the Respondent/s : Mr. Umesh Kumar Singh

Mr. Raghevendra Kumar Singh

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 24-04-2015

Heard Sri Ansoy Bahadur Mathur, learned counsel for the
petitioners, learned AC to Principal Additional Advocate General and
Sri Umesh Kumar Singh, learned senior counsel, who was assisted
by Sri Raghvendra Kumar Singh, learned counsel for the private
respondent no. 6 to 11.

The petitioners, invoking writ jurisdiction of this court
under Article 226 of the Constitution of India has prayed, for



quashing of an order passed by the learned Collector, Muzaffarpur, in Miscellaneous Petition No. 64 of 2002-03 (Annexure - 3 to the petition). By the said order learned Collector has set aside the order passed by the D.C.L.R. dated 23.9.2002 passed in Mutation Appeal No. 15 of 2002-03 and directed to restore the order dated 17.1.2002 passed by the Circle Officer Kudhani in Mutation Case No. 1191 of 2001-02.

Learned counsel for the petitioners submits that in this case dispute is in relation to land measuring 8 decimals appertaining to R.S. Plot No. 480, Khata No. 192 situated at village -Padamaul P.S. -Kudhani, District - Muzaffarpur. Learned counsel for the petitioners submits that the wife of respondent no. 6 got registered sale deed executed from one Nageshwar Rai, in respect of the disputed land, whereas, fact remains that the said land was earlier transferred to the petitioners, through Sada Mahadnama and subsequently, two registered sale deeds were executed by the said vendor. He submits that since the Circle Officer had committed error in allowing the mutation in favour of the wife of the respondent no. 6, who was mother of respondent no. 7 to 11, the petitioners filed an appeal before the D.C.L.R. and the learned D.C.L.R. by a detailed order allowed the appeal and set aside the order of the Circle Officer. However, the private respondents preferred an application



before the learned Collector and the learned Collector in Miscellaneous Petition No. 64 of 2002-03 has allowed the prayer of the private respondents and quashed the order of the D.C.L.R. Learned counsel for the petitioners submits that since in respect of the same land there were three registered sale deeds, the learned Collector was not required to interfere into the matter. He further argued that the order impugned does not contain any date. However, at the time of argument, orally it was submitted that the order impugned was not even signed by the Collector. On aforesaid grounds he has assailed the order of the Collector.

Sri Umesh Kumar Singh, learned senior counsel, who appears on behalf of the private respondents i.e. respondent no. 6 to 11 has opposed the prayer of the petitioners. He submits that the Circle Officer has proceeded in accordance with the provisions contained in Bihar Tenants' Holdings (Maintenance of Records) Act, 1973. He submits that in view of Section 12 of the Act, the wife of the respondent no. 6 after getting the land in question transferred through registered sale deed applied for mutation. Thereafter, the Circle Officer got the matter enquired through the Halka Karmchari and Circle Inspector of physical verification. After getting the report from the Circle Inspector in accordance with law mutation order was passed. He has emphasized that there is no apparent



procedural error in the order of the Circle Officer. However, in an irregular manner the learned D.C.L.R. had interfered with the matter and such defect has been cured by the Collector by the impugned order. He further submits that after the land was transferred to the wife of the respondent no. 6 through registered sale deed the same vendor subsequently executed two sale deeds in favour of the petitioners which included the land in dispute. He submits that so far as the question of title is concerned, that may not be looked into by the court of revenue authority. Such dispute can well be adjudicated by the court of competent jurisdiction. Learned counsel for the private respondents has further argued that against the order of the Collector, the petitioners had earlier preferred a Revision before the Divisional Commissioner, Muzaffarpur, however, due to want of jurisdiction, same was rejected.

Besides hearing learned counsel for the parties, I have also perused the materials available on record. In view of the facts and circumstances particularly the fact that the private respondents had applied for mutation on the basis of registered sale deed and thereafter, the Circle Officer got the matter enquired through the Circle Inspector and Halka Karmchari and only thereafter, mutation order was passed the court is of the opinion that the Circle Officer had committed no illegality. Moreover, the dispute which is being

raised by the petitioners that in respect of the same land subsequently, registered sale deeds were executed, such dispute may not be examined by this court that too, while exercising power under Article 226 of the Constitution of India. Such dispute can be raised before the court of competent jurisdiction. So far as non - mentioning of date is concerned, on such technical issue, the order impugned may not be interfered with, since before this court only certified copy of the order has been brought on record. No record of the Lower Court was summoned.

In view of the facts and circumstances, I do not find any ground to interfere with the impugned order. If so advised, petitioners may avail appropriate remedy.

The writ petition stands dismissed.

(Rakesh Kumar, J)

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