# IN THE HIGH COURT OF JUDICATURE AT PATNA

**Civil Writ Jurisdiction Case No.6 of 2014**

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Ram Pravesh Singh, S/O Kapil Deo Singh, resident of Village - Dumara, P.S. - Kargahar, District – Rohtas.

.... .... Petitioner/s

Versus

1. The State of Bihar.
2. The Member (Judicial), Bihar Land Tribunal, Patna.
3. The Additional Collector, Rohtas at Sasaram.
4. The D.C.L.R., Sasaram, Rohtas.
5. The Circle Officer, Sasaram, Rohtas.
6. Suraj Kumar Singh @ Surya Kumar Singh @ Suraj Singh @ Suraj Narayan Singh @ Surya Narayan Singh, S/O Late Jagdeo Singh, resident of Village - Kushahi, P.O. - Sisirta, P.S. - Nokha, District - Rohtas; At present residing at Mouza - Bercap, P.O. & P.S. - Darihat, District – Rohtas.
7. Hari Narayan Singh.
8. Satya Narayan Singh.

   Both Sl. No.7 and 8 are sons of Late Jagdeo Singh and are residents of Village - Kusahi, P.O. - Sisirta, P.S. - Nokha, District – Rohtas.
9. Tulsi Sah.
10. Munshi Sah.
11. Ram Naresh Sah.
12. Baij Nath Sah.

    All at Sl. No.9 to 12 are sons of Punna Sah and are residents of Village-Amra Talab, P.S. - Sasaram, District – Rohtas.

.... .... Respondent/s

With

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**Civil Writ Jurisdiction Case No. 22849 of 2013**

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Banarsi Prasad Singh, S/O Late Bharat Chaudhary, resident of Village- Rupi, P.O.-Akorha, P.S.- Dinara, District- Rohtas, At present residing at Village/Mohalla-Takiya, P.S.- Sasaram (Model), District- Rohtas.

.... .... Petitioner/s

Versus

1. The State of Bihar.
2. The Member (Judicial), Bihar Land Tribunal, Patna.
3. The Additional Collector, Rohtas at Sasaram.
4. The D.C.L.R., Sasaram, Rohtas.
5. The Circle Officer, Sasaram, Rohtas.
6. Suraj Kumar Singh @ Surya Kumar Singh @ Suraj Singh @ Suraj Narayan Singh @ Surya Narayan Singh, S/O Late Jagdeo Singh, resident of Village-Kushahi, P.O.- Sisrta, P.S.- Nokha, District- Rohtas. At present residing at Mouza- Bercap, P.O. & P.S. - Darihat, District- Rohtas.
7. Hari Narayan Singh.
8. Satya Narayan Singh.

   Both at Sl. Nos.7 and 8 are sons of Late Jagdeo Singh and are residents of Village- Kusahi, P.O. - Sisirta, P.S. - Nokha, District- Rohtas.

.... .... Respondent/s

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**Appearance :**
**(In CWJC No. 6 of 2014)**

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| For the Petitioner/s | : | Mr. Shashi Shekhar Dwivedi, Sr. Adv. with Mr. Subash Kumar |
| For the Respondent-State | : | Mr. Amit Kumar Anand, AC to GP-15 |
| For the Respondent No.7 | : | Mr. Sanjay Kumar Pandey No.5 |
| For respondents 6, 8 & 9 to 12 | : | Mr. Raghunandan Kumar Singh |

**(In CWJC No. 22849 of 2013)**

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| For the Petitioner/s | : | Mr. Shashi Shekhar Dwivedi, Sr. Adv. with Mr. Subash Kumar |
| For the Respondent-State | : | Mr. Ajay Behari Sinha, SC-19<br>Mr. Suryakant Kumar, AC to SC-19 |
| For the Respondent Nos.6 & 8 | : | Mr. Raghunandan Kumar Singh |



**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**
ORAL JUDGMENT
**Date: 20-07-2015**

Since common issues are involved in the two writ petitions hence with the consent of the parties they have been heard together and are being disposed of by this common judgment.

The petitioners in the two writ petitions are vendees from respondent no.7 Hari Narayan Singh who is the son of late Jagdeo Singh and brother of respondent nos.6 and 8. It is the case of the petitioners that under a registered gift deed dated 28.12.1982 the respondent no.6 gifted 87 decimals of land and respondent no.8 gifted 68 decimals of land in favour of respondent no.7 and in addition thereto the respondent no.6 also gifted 1/3rd of the jointly purchased property admeasuring 13 decimals and $6^1/_2$ decimals to the respondent no.7. In total $174^1/_2$ decimals of land gifted by respondent nos.6 and 8. It is also not in dispute that the father of these respondents is a witness to the gift deed.

It is the case of the petitioners that in return of the lands so gifted by respondent no.6, the respondent nos.7 and 8 also gifted certain lands situated in Mouza Berkap, Circle- Dehri in the district of Rohtas vide three gift-deeds dated 4.1.1983 admeasuring $92^{1}/_{2}$ decimals. It is the case of these petitioners that the respondent no.7 thereafter executed a sale-deed in favour of petitioner Ram Pravesh Singh for an area of 1 acre $6^{1}/_{2}$ decimals and in favour of writ petitioner Banarsi Prasad Singh for an area of $84^{1}/_{2}$ decimals and following the registration the writ petitioners applied before the Circle Officer, Sasaram for mutation of their names which has been allowed and the appeal preferred by the respondent no.6 before the Deputy Collector, Land Reforms, Sasaram as well as the revision before the Additional Collector, Rohtas at Sasaram was dismissed. Thus the order of mutation passed in favour of the two writ petitioners stood confirmed until the revisional authority. The respondent no.6 thereafter moved the Bihar Land Tribunal under the provisions of the Bihar Land Tribunal Act, 2009 (hereinafter referred to as ‘the Act’) through B.L.T. Case No.457 of 2013 in so far as the writ petitioner Banarsi Prasad Singh is concerned and B.L.T. Case No.458 of 2013 in so far as writ petitioner Ram Pravesh Singh is concerned and the Bihar Land Tribunal vide order passed on 25.7.2013 in the two cases has allowed the case of the respondent no.6 and has set aside the orders passed by the revenue authorities. Being aggrieved by the said order the petitioners are before this Court.

A very short issue has been raised by Mr. Shashi Shekhar Dwivedi, learned senior counsel appearing on behalf of the two writ petitioners. He submits that the Tribunal even while noticing the fact that the gift-deeds are registered and a challenge to its validity is pending consideration before the Civil Court in Title Suit No.754 of 2011 and even while observing that it would not be proper for the tribunal to make any comment as to the relative merits of the case of the contesting parties, yet has proceeded to set aside the order of the revenue authorities granting mutation in favour of the writ petitioners which was granted on the basis of the registered gift-deeds. It is the contention of Mr. Dwivedi that no infirmity could be attached to the order granting mutation in favour of the two writ petitioners until such time that a gift-deed executed in favour of the vendors of these two writ petitioners were set aside by a court of competent jurisdiction and since this matter is pending consideration before the Civil Court, the order of the Tribunal amounts to prejudging the issue. It is further submitted that although the respondent no.6 initially sought to question the gift-deed vide Title Suit No.159 of 2011 but for the reasons best known he chose to withdraw the suit without taking permission from the court concerned to file a fresh suit and thus even the maintainability of the second suit is an issue to be adjudicated upon. He submits that the Tribunal has though appreciated these issues but yet has proceeded to set aside the order passed by the revenue authorities.

The State is represented by the State Counsel, the respondent nos.6 and 8 are represented by Mr. Raghunandan Kumar Singh and respondent no.7 is represented by Mr. Sanjay Kumar Pandey. Mr. Raghunandan Kumar Singh has also registered appearance for respondent nos.9 to 12 who are the purchasers from the respondent no.6.

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

Although learned counsel for the respondents have tried to support the impugned orders while questioning the gift deeds but Mr. Raghunandan Kumar Singh, learned counsel representing the donee even while questioning the validity of the gift-deeds fairly admits that the same are registered and that its validity is pending consideration in Title Suit No.754 of 2011. It is admitted position that the order of the revenue authorities granting mutation in favour of the two writ petitioners is in consideration of the registered gift-deeds and which is also the foundation for the respondent no.7 to execute the sale deed in favour of the two writ petitioners.

Indisputably the validity of the gift-deeds executed in favour of respondent no.7 are pending consideration before the Civil Court in Title Suit No.754 of 2011 hence its mere pendency cannot render the orders passed by the revenue authorities granting mutation to the writ petitioners illegal until such time that the gift-deeds in favour of respondent no.7 which vests right in him to execute the sale-deed in favour of the writ petitioners itself is held illegal.

The Tribunal has though rightly not made any comments on the validity of the sale-deeds which is pending consideration in the title suit but even while expressing such opinion the Tribunal has committed a serious error in interfering with the orders of the revenue authorities. Now where the issue so raised by the respondent no.6 before the Tribunal was yet pending adjudication in Title Suit No.754 of 2011, the Tribunal should have refrained from interfering with the orders passed by the revenue authorities which completely rests on the registered gift-deeds.

For the reasons aforementioned the order dated

25.7.2013 passed the Bihar Land Tribunal in B.L.T. Case No.457 of 2013 and B.L.T. Case No.458 of 2013 cannot be upheld and are accordingly set aside.

It goes without saying that the order of the revenue authorities would be subject to the final outcome of the matter pending consideration in Title Suit No.754 of 2011.

The writ petitions are allowed but before parting I shall put on record that I have expressed no opinion on the validity of the gift-deeds. .

**(Jyoti Saran, J)**

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