

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12085 of 2014

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1. Rajendra Prasad Singh @ Rajendra Mahto
 2. Mahendra Mahto, Both sons of Late Laxman Mahto, resident of village Sangati Bari, P.O. Kuraitha, Police Station- Mansahi, District- Katihar

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna
2. The Collector, Katihar, District Katihar Bihar
3. The Additional Collector, District Katihar Bihar
4. Deputy Collector, Land Reforms, Katihar, Bihar
5. Circle officer (Anchal Adhikari), Circle- Pranpur, District- Katihar, Bihar
6. Yogendra Prasad Singh @ Yogendra Mahto
7. Upendra Prasad Singh @ Upendra Mahto Both sons of Late Laxman Mahto, resident of Village Tulsipur, P.O. and Police Station Sanaukhar Hat, District Bhagalpur

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Sharda Nand Mishra, Advocate
Mr. Dhananjay Kumar Gupta, Advocate
Mr. Praveen Kumar, Advocate
For the Respondent/s : Mr. Pushkar Narain Shahi, AAG-10

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 14-07-2015 Heard Mr. Sharda Nand Mishra, learned counsel for the petitioner and Mr. Mritunjay Kumar, Assisting Counsel to AAG-10 for the State.

The petitioner has questioned the order dated 12.3.2014 passed by the Additional Collector, respondent no. 3 in Revision Case No. 560 of 2011-12 discharging duties of Collector under the Bihar Tenants Holdings (Maintenance of Records) Act, 1973 (hereinafter referred to as 'the Act') whereby he has set aside the

order passed by the Deputy Collector Land Reforms in Appeal No. 100 of 2007-08 as well as the order passed by the Circle Officer in Mutation Case No. 738 of 2004-05 whereby the name of the present petitioners were mutated in the revenue records.

The claim of the present petitioners rests on a family partition and which was accepted by the Circle Officer while allowing the mutation in their favour. The private respondents being aggrieved preferred Appeal No. 100 of 2007-08 which was dismissed on 25.10.2010 by the Deputy Collector Land Reforms and being aggrieved they preferred a Revision Case No. 560 of 2011-12 which has been allowed by the Additional Collector *inter alia* on grounds that the order of mutation was passed without notice and opportunity of hearing to the private respondents. The matter has been remitted back to the Circle Officer for its disposal in accordance with law after hearing the contesting parties i.e. the two petitioners as well as the two private respondents who happen to be own brothers and sons of late Laxman Mahto.

In view of the provisions underlying Section 9 of the Bihar Land Tribunal Act, 2009 whereunder orders passed by the statutory authorities under the enactments listed thereunder which also includes 'the Act' in question are assailable before the Tribunal, the petitioner has an alternative remedy before the

Tribunal at the present stage and in the circumstances the writ petition is disposed of permitting the petitioners to exhaust the alternative remedy so available to them.

Mr. Mishra, learned counsel for the petitioners submits that there is a limitation period of 90 days but considering that the writ petition was filed in this Court within 90 days of the passing of the impugned order as well as considering the power of condonation of delay so vested in the Tribunal under Section 14 of the Act, the petitioners would be at liberty to make a prayer for condonation of delay in the backdrop of the pendency of the matter before this Court.

S.Sb/-

(Jyoti Saran, J)

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