

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9480 of 2013

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1. Santosh Singh son of Late Bimleshwar Prasad Singh, resident of Village-
Bahadurpur, P.S.- Bahadurpur, P.O.- Rajendra Nagar, District- Patna
2. Bijay Kumar Singh son of Late Ayodhya Singh, resident of Village-
Bahadurpur, P.S.- Bahadurpur, P.O.- Rajendra Nagar, District- Patna
..... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Patna, District- Patna
3. The Deputy Collector, Land Reforms, Patna District
4. The Circle Officer, Patna Sadar Circle, Near Gandhi Maidan
5. Mostt. Maina Devi widow of Late Saroj Singh, resident of Village-
Bahadurpur, P.S.- Bahadurpur, P.O.- Rajendra Nagar, District- Patna
..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar, Adocate
For the Respondent Nos. 1 to 4 : Mr.Sanjay Prakash Verma, AC to GA 1
For the Respondent No.5 : Mr. P.N.Pathak, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

10 01-12-2015

Heard the parties.

2. The petitioners have filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the order dated 10.03.2012 passed in Mutation Case No. 2417/4 of 2011-12 by the respondent Anchal Adhikari (Circle Officer), Patna Sadar, Patna, as contained in Anenxure-5, whereby the lands of Plot Nos. 395 and 396 have been mutated in favour of the respondent no.5.

3. Learned counsel appearing on behalf of the petitioners submits that the lands of Plot No. 395 were acquired by the ancestors of the petitioners and they were coming in possession over the same and after their death, the petitioners have been coming in their possession. He further submits that Plot No. 395 was mutated in favour of the petitioners by the respondent Anchal Adhikari, Patna Sadar, Patna vide orders contained in Annexures 3 and 4. It is next contended that the impugned order of mutation has been passed by the respondent Anchal Adhikari,

Patna Sadar by ignoring the aforesaid facts and the orders contained in Annexures-3 and 4, and without giving any opportunity of hearing to the petitioners. According to the learned counsel, impugned order is liable to be quashed on the ground of violation of principles of natural justice.

4. The matter has been contested by the respondents by filing separate sets of counter affidavits on behalf of the respondent nos. 1 to 4 as also respondent no.5. Learned State counsel submits that if the petitioners are aggrieved by the impugned order, they can approach the Civil Court of competent jurisdiction for redressal of their valid grievances. Learned counsel appearing on behalf of the respondent no.5, on the other hand, submits that, in fact, the petitioners have no claim over plot no. 396. Furthermore, it is contended that general notice was issued to the interested persons, but in spite of that, no objection was filed by the petitioners; therefore, the Anchal Adhikari passed the impugned order. However, despite repeated queries, neither learned State counsel nor the learned counsel appearing on behalf of the respondent no.5 have been able to show that, in fact, the petitioners were also heard before passing the impugned final order mutating the lands of plot no. 395 in favour of the respondent no.5.

5. After having heard the parties and taking into consideration the factual matrix of the case, this Court is of the opinion that before passing the impugned final order, rules of natural justice has not been followed. If the respondent no.5 had filed an application for mutation of plot no. 395 in her favour, then before passing the final order, opportunity of hearing was required to be given to the petitioners, which has not been done in the present case. Therefore, in the considered opinion of this Court, the matter requires re-consideration and a fresh decision in

accordance with law, after giving opportunity of hearing to all concerned.

6. For the reasons recorded above, the impugned order dated 10.03.2012 passed in Mutation Case No. 2417/4 of 2011-12, as contained in Annexure-5, so far it relates to plot no. 395 alone is concerned, is hereby set aside and quashed and the matter is remitted back to the respondent Anchal Adhikari (Circle Officer), Patna Sadar, Patna with a direction to decide the aforesaid mutation case of respondent no.5 afresh, after giving opportunity of hearing to all concerned including the petitioners and respondent no.5.

7. In order to expedite the matter, the petitioners and the respondent no.5 are hereby directed to appear before the respondent Circle Officer, Patna Sadar, Patna within a period of one month from today with a certified copy of the present order, whereafter the respondent Circle Officer, Patna Sadar, Patna shall proceed further and shall decide the aforesaid mutation case filed on behalf of the respondent no.5 afresh, but before passing final order, the petitioners shall be given reasonable opportunity of hearing.

8. It is clarified that the parties shall be at liberty to raise all the issues of facts and law, which may be available to them with respect to the lands in question before the respondent Circle Officer, Patna Sadar, Patna.

9. The writ petition stands allowed to the extent indicated, but with the observations and directions made above. However, the parties are left to bear their own costs.

(Birendra Prasad Verma, J)

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