

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9439 of 2014

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Lalan Prasad Choudhary, son of Late Baijnath Choudhary, resident of
village- Tenuja Tola, P.S.- Natwar, District- Rohtas

.... Petitioner/s

Versus

1. The State of Bihar through Collector, Rohtas at Sasaram
2. The Deputy Collector Land Reforms, Bikramganj, District- Rohtas
3. The Circle Officer, Dinara, District- Rohtas
4. Ajit Kumar son of Late N.K. Sahay, Deputy Collector Land Reforms
Bikramganj, District- Rohtas

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Suresh Prasad Bhakta, Advocate

For the Respondent/s : Mr. Amar Nath Deo, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 17-07-2015 Heard learned counsel for the petitioner and Mr. Praveen
Kumar Verma, Assisting Counsel to SC- 26 for the State.

The petitioner has prayed for mutation of his name as
existing before the revisional survey entry in relation to land
bearing C.S. Khata No. 483, C.S. Plot No. 961 and 962, R.S.
Khata No. 723, R.S. Plot No. 160/ 2513 admeasuring three kathas
and four dhurs respectively which had been purchased through
two sale deeds dated 22.2.1964 and 17.5.1965.

The petitioner while questioning the order dated
02.8.2012 passed by the respondent no. 4 i.e. the Deputy Collector
Land Reforms, Bikramganj in the District of Rohtas in Rent
Fixation Case No. 1 of 2009-10 whereby his application for



mutation has been rejected impugned at Annexure-2, also prays for issuance of a writ in the nature of mandamus commanding respondents to grant him mutation in respect of the lands described in paragraph-7 of the writ petition in view of the judgment and decree dated 14.7.2008 passed by Munsif, Bikramganj in Title Suit No. 35 of 2002 present at Annexure-1. By the impugned order dated 02.8.2012 placed at Annexure-2, the Deputy Collector Land Reforms, Bikramganj has rejected the prayer of the petitioner *inter alia* on grounds that the State has preferred an appeal against the judgment and decree passed in the Title Suit bearing Title Appeal No. 47 of 2012.

It is the case of the petitioner that the father of the petitioner had purchased the land in question through two sale deeds dated 22.2.1964 and 17.5.1965 and whereafter the name of father of the petitioner was entered in the revenue records. However, after the revisional survey, the name was deleted and the lands were entered as gair mazarua sarv sadharan. A title suit was filed by the petitioner for declaration of title and possession over the land in question giving rise to Title Suit No. 35 of 2002 and which has been decreed under the judgment and decree dated 14.7.2008 present at Annexure-1. It is in these circumstances that an application was filed for mutation and creation of the survey

entry which has been rejected by the impugned order dated 02.8.2012 passed in Rent Fixation Case No. 1 of 2009-10 by the Deputy Collector Land Reforms and hence this application.

A supplementary affidavit has been filed by the petitioner in which it is stated that the title appeal filed by the State being Title Appeal No. 47 of 2012 was dismissed for non-prosecution vide order dated 21.10.2013.

I have heard learned counsel for the parties and I have perused the records. The impugned order passed by the Deputy Collector Land Reforms in refusing to grant the prayer made by the petitioner for mutation of his name in the revenue records *inter alia* on grounds of pending title appeal is only taken to be rejected for unless the decree of the trial court passed in Title Suit No. 35 of 2002 is set aside by a superior court it continues to operate in favour of the decree holder i.e. the writ petitioner. Whether the title appeal of the State has been dismissed for default or a restoration is pending, would make no difference to the status of the writ petitioner who claims his right under the decree passed in the title suit.

In the circumstances, the order dated 02.8.2012 passed by the respondent no. 4 the Deputy Collector Land Reforms, Bikramganj in Rent Fixation Case No. 1 of 2009-10 is set aside.

The Deputy Collector Land Reforms is directed to mutate the name of the petitioner in respect of the land, the details of which are given hereinabove and which should be done within three months from the date of receipt / production of a copy of this order.

The writ petition is allowed. Let a writ of mandamus issue accordingly.

(Jyoti Saran, J)

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