

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23170 of 2012

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Tarkeshwar Narayan Singh @ Deepak Kumar Singh S/O Late Dev Narayan Singh R/O Shastri Bhawan, Nariyal Ghat, Takiapar, P.O.- Digha, P.S.- Danapur, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Patna
3. The Circle Officer, Danapur, Patna
4. Vameshwar Prasad Sinha S/O Late Vasudeo Singh R/O Village-Rasulpur, P.S.- Kurtha, District- Jehanabad
5. The Ashok Kumar Sinha S/O Late Vasudeo Singh R/O Village-Rasulpur, P.S.- Kurtha, District- Jehanabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Jitendra Kishore Verma, Advocate
Mr.Anjani Kumar, Advocate

For the Respondent Nos. 1 to 3: Mr.Rakesh Kumar Ranjan, AC to GA 12

For the Respondent Nos. 4 & 5: Mr.Panditjee Pandey, Advocate
Mr.Nawnit Kumar Tiwary, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 29-10-2015

Heard the parties.

2. The petitioner has filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the order dated 09.01.2010 (Annexure-2) passed in Mutation Case No. 1100/7 of 2009-10 by the respondent Circle Officer, Danapur, Patna, whereby the petition filed on behalf of the respondent nos. 4 and 5 for mutation of the land in question in their favour has been allowed by a cryptic and non-speaking order. The petitioner is also aggrieved by order dated 15.09.2012 (Annexure-5) passed in Misc.Case No. 06 of 2012-13, whereby the petition filed on behalf of the petitioner for recall of the previous order and issuance of rent receipt in his favour with respect to the land in question has been rejected by the respondent

Circle Officer, Danapur.

3. Learned counsel appearing on behalf of the petitioner submits that the original impugned order dated 09.01.2010 (Annexure-2) was passed ex-parte, as notice upon the petitioner was never served. He further submits that the order impugned has been passed mechanically without application of independent judicial mind to the facts of the case. He next submits that in view of the factual matrixes of the case, orders impugned are liable to be set aside.

4. Learned counsel appearing on behalf of the respondent nos. 4 and 5 have opposed the prayer made on behalf of the petitioner by referring to the averments made in the counter affidavit filed on their behalf. According to him, notice was issued to the petitioner and despite valid service of notice, he did not appear to contest the claim. Therefore, the order of mutation has rightly been passed.

5. After having heard the parties and on consideration of the materials available on the record, this Court is of the opinion that the matter requires reconsideration and fresh decision. Apparently, impugned original order dated 09.01.2010 is a non-speaking and cryptic one. The petition filed on behalf of the respondent nos. 4 and 5 has been allowed mechanically for the purposes of mutation. This Court is further of the opinion that a reasonable opportunity of hearing must be given to the parties for contesting the matter and placing their documents/materials in support of their respective claims since both sides have placed reliance on various documents with respect to their claims of possession over the land in question.

6. For the reasons recorded above, the impugned

order dated 09.01.2010 (Annexure-2) passed in Mutation Case No. 1100/7 of 2009-10 as also order dated 15.09.2012 (Annexure-5) passed in Misc.Case no. 06 of 2012-13, both by the respondent Circle Officer, Danapur, Patna are hereby set aside and quashed and the entire matter is remitted to the respondent Circle Officer, Danapur with a direction to decide the claim of mutation of the parties with respect to the land in question afresh by a reasoned and speaking order after giving an opportunity of hearing to both the parties, besides others, if any.

7. In order to expedite the matter, the petitioner as also the respondent nos. 4 and 5 are hereby directed to appear before the respondent Circle Officer, Danapur, Patna within a period of one month from today with a certified copy of the present order, whereafter the respondent Circle Officer, Danapur, Patna shall fix a firm date for consideration of their claims and thereafter he shall decide the claims of the parties by a reasoned and speaking order strictly in accordance with law.

8. Both 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 land in question before the respondent Circle Officer, Danapur, Patna.

9. In the result, the writ petition stands allowed to the extent indicated above as also with the directions made above. However, the parties are left to bear their own costs.

(Birendra Prasad Verma, J)

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